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TITLE 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Docket No. AO-71-A-30]

PART 927—MILK IN NEW YORK METROPOLITAN MILK MARKETING AREA

ORDER AMENDING ORDER, AS AMENDED

§ 927.0 Findings and determinations. The findings and determinations herein after set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of each of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid fac-

tors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) Additional findings. It is necessary, in the public interest, to make this order amending the order, as amended, effective on February 1, 1956. An effective date other than as of the first day of a month is administratively impracticable. The provisions of the said order are well known to handlers, having been included in the decision published in the FEDERAL REGISTER on December 31, 1955 (20 F. R. 10164). The changes effected by this order amending the order, as amended, do not require substantial or extensive preparation by persons affected prior to its effective date. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order, as amended, effective on February 1, 1956.

(c) Determinations. It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order amending the order, as amended, which is marketed within the New York metropolitan milk marketing area) of more than 50 percent of the milk which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practicable means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is

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produced for sale in the said marketing area; and

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who, during the determined representative period (October 1955), were engaged in the production of milk for sale in the said marketing area.

It is therefore ordered, That on and after February 1, 1956, the handling of milk in the New York metropolitan milk marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as heretofore amended and as hereby further amended as follows:

1. Amend § 927.35 (a) by adding the following proviso: "Provided, That at a plant in the marketing area milk received directly from producers by tank truck shall be assigned to Class I-A prior to the assignment of milk from other plants to Class I-A."

2. Amend § 927.60 (f) by adding the following: "Provided, That with respect to milk received by tank truck directly from a farm from which milk was delivered to a pool plant during any of the months of August through November 1955, such deduction shall be at a rate no higher than the highest rate applicable to milk delivered from the same farm in any of such months: *Provided further*, That with respect to milk received by tank truck directly from a farm from which no milk was delivered to a pool plant during any of the months of August through November 1955, such deduction shall be at the rate of 20 cents per hundredweight if the milk house of such farm is located in one of the counties listed in this paragraph, such deduction shall be at the rate of 30 cents per hundredweight if the milk house of such farm is located in the marketing area, and no deduction shall be made pursuant to this paragraph if the milk house of such farm is not located either in the marketing area or in one of the counties listed in this paragraph: *And provided further*, That for purposes of this paragraph the producer operating a farm shall be considered to have been the producer during any of the months of August through November 1955 if the market administrator determines that milk from such farm was delivered to a pool plant during any of such months regardless of any change in farm operator subsequent to such months."

(Sec. 5, 49 Stat. 753, as amended, 7 U. S. C. and 608c)

Issued at Washington, D. C., this 16th day of January 1956.

[SEAL]

EARL L. BUTZ,
Assistant Secretary.

[F. R. Doc. 56-468; Filed, Jan. 19, 1956; 8:45 a. m.]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

FINDINGS AND DETERMINATIONS RELATIVE TO EXPENSES TO BE INCURRED AND FIXING OF RATE OF ASSESSMENT FOR 1955-56 FISCAL YEAR

On December 17, 1955, notice of proposed rule making was published in the FEDERAL REGISTER (20 F. R. 9495) regarding the expenses and the fixing of the rate of assessment for the 1955-56 fiscal year pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR, Part 953; 20 F. R. 8451), regulating the handling of lemons grown in the State of California or in the State of Arizona. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.). After consideration of all relevant matters presented, including the proposals which were submitted by the Lemon Administrative Committee (established pursuant to the amended marketing agreement and order) and set forth in the aforesaid notice, it is hereby found and determined that:

§ 953.210 *Expenses and rate of assessment for the 1955-56 fiscal year.* (a) The expenses necessary to be incurred by the Lemon Administrative Committee, established pursuant to the provisions of the aforesaid amended marketing agreement and order, for its maintenance and functioning during the fiscal year ending October 31, 1956, will amount to \$134,995.00; and the rate of assessment to be paid, in accordance with the amended marketing agreement and order, by each handler who first handles lemons shall be seven-eighths ($\frac{7}{8}$) cent per carton of lemons, or an equivalent quantity of lemons, handled by him as the first handler thereof during the said fiscal year. Such rate of assessment is hereby fixed as each handler's pro rata share of the aforesaid expenses.

(b) Terms used herein shall have the same meaning as when used in said amended marketing agreement and order; and "carton" shall mean the standard one-half orange, grapefruit, or lemon box set forth as standard container number 58 in Section 828.83, as amended, of the Agricultural Code of California.

It is hereby further found that it is impracticable and contrary to the public interest to postpone the effective date hereof until 30 days after publication in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that (1) the rate of assessment is applicable to all lemons shipped during the 1955-56 season; (2) shipments of lemons in volume have been made since the start of the fiscal year on November 1, 1955; and (3) it is essential that the specifications of the assess-

ment rate be issued immediately so that the aforesaid assessment may be collected and thereby enable the Lemon Administrative Committee to perform its duties and functions in accordance with the said amended marketing agreement and order.

The terms hereof shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: January 17, 1956.

[SEAL]

ROY W. LENNARTSON,
Deputy Administrator.

[F. R. Doc. 56-498; Filed, Jan. 19, 1956; 8:51 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

Subchapter C—Interstate Transportation of Animals and Poultry

[B. A. I. Order 383, Revised, Amdt. 70]

PART 76—HOG CHOLERA, SWINE PLAGUE, AND OTHER COMMUNICABLE SWINE DISEASES

SUBPART B—VESICULAR EXANTHEMA

CHANGES IN AREAS QUARANTINED

Pursuant to the provisions of sections 1 and 3 of the act of March 3, 1905, as amended (21 U. S. C. 123, 125), sections 1 and 2 of the act of February 2, 1903, as amended (21 U. S. C. 111-113, 120), and section 7 of the act of May 29, 1884, as amended (21 U. S. C. 117), § 76.27, as amended, Subpart B, Part 76, Title 9, Code of Federal Regulations (21 F. R. 3), which contains a notice with respect to the States in which swine are affected with vesicular exanthema, a contagious, infectious, and communicable disease, and which quarantines certain areas in such States because of said disease, is hereby further amended in the following respects:

1. A new subdivision (vi) is added to subparagraph (1) of paragraph (d), relating to Atlantic County in New Jersey, to read:

(vi) Lot 11 in Block 22A, in Egg Harbor Township, owned and operated by R. M. Cheatham.

2. New subdivisions (ixi), (ixii), and (ixiii) are added to subparagraph (5), of paragraph (d), relating to Gloucester County in New Jersey, to read:

(ixi) Lot 3 in Block 5, in Deptford Township, owned and operated by T. Payne;

(ixii) Lots 2B, 2C, 3, 4, and 5 in Block 152, in Deptford Township, owned and operated by George Holzworth; and

(ixiii) Lot 15 in Block 398, in Deptford Township, owned and operated by Joseph Scanlon.

3. A new subdivision (vii) is added to subparagraph (8) of paragraph (d), relating to Middlesex County in New Jersey, to read:

(vii) That part of Madison Township lying north of State Route No. 18, east of Old Water Works Road, south of Tennents Brook, and west of U. S. Route No. 9.

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes certain areas in New Jersey from the areas heretofore quarantined because of vesicular exanthema. Hereafter, the restrictions pertaining to the interstate movement of swine, and carcasses, parts and offal of swine, from or through quarantined areas, contained in 9 CFR, 1954 Supp., Part 76, Subpart B, as amended, will not apply to such areas. However, the restrictions pertaining to such movement from nonquarantined areas, contained in said Subpart B, as amended, will apply thereto.

The amendment relieves certain restrictions presently imposed, and must be made effective immediately to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003), it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and the amendment may be made effective less than 30 days after publication in the FEDERAL REGISTER.

(Secs. 1, 2, 32 Stat. 791-792, as amended, secs. 1, 3, 33 Stat. 1264, as amended, 1265, as amended; 21 U. S. C. 111-113, 120, 123, 125. Interprets or applies sec. 7, 23 Stat. 32, as amended; 21 U. S. C. 117)

Done at Washington, D. C., this 16th day of January 1956.

[SEAL] M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F. R. Doc. 56-501; Filed, Jan. 19, 1956;
8:52 a. m.]

TITLE 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 110—UNCLASSIFIED ACTIVITIES IN FOREIGN ATOMIC ENERGY PROGRAMS

The regulations in this part incorporate a general authorization made by the Commission under section 57 a. (3) (B) of the Atomic Energy Act of 1954 (68 Stat. 919); establish reporting requirements applicable to persons who engage in certain unclassified activities in foreign atomic energy programs; and establish procedures governing applications for specific authorizations to engage directly or indirectly in the production of special nuclear material outside of the United States. Notice of the general authorization was published in the FEDERAL REGISTER on October 5, 1955 (20 F. R. 7399). The notice included a statement that the Commission would soon promulgate regulations incorporating the authorization and that such regulations would include provisions requiring persons who have engaged in certain activities pursuant to the authorization to submit a report to the Commission concerning such activity. The regulations published below provide a period of 30 days for all persons who have previously engaged in such activities to sub-

mit the required reports. In light of these considerations, the Atomic Energy Commission has found that the customary general notice of proposed rule making and public procedure thereon are unnecessary and would be contrary to the public interest; and that good cause exists why the regulations in this part should be made effective without the customary 30-day period of notice.

Pursuant to the Administrative Procedure Act, Public Law 404, 79th Congress, 2d Session, the following rules are published as a document subject to codification.

Sec.	
110.1	Purpose.
110.2	Scope.
110.3	Definitions.
110.4	Communications.
110.5	Interpretations.
110.6	Authorization requirement.
110.7	Generally authorized activities.
110.8	Application for specific authorization.
110.9	Contents of application.
110.10	Reports.
110.11	Additional information.
110.12	Enforcement.
110.13	Effective date.

AUTHORITY: §§ 110.1 to 110.13 issued under sec. 57, 68 Stat. 932, 42 U. S. C. 2077 and sec. 161, 68 Stat. 948, 42 U. S. C. 2201, for the purposes of sec. 223, 68 Stat. 958, 42 U. S. C. 2273, §§ 110.10 and 110.11 issued under sec. 161 p., 68 Stat. 950, 42 U. S. C. 2201.

§ 110.1 **Purpose.** The regulations in this part incorporate a general authorization made by the Commission under section 57a (3) (B) of the Atomic Energy Act of 1954 (68 Stat. 919); establish reporting requirements applicable to persons who engage in certain unclassified activities in foreign atomic energy programs; and establish procedures governing applications for specific authorizations to engage directly or indirectly in the production of special nuclear material outside the United States.

§ 110.2 **Scope.** The regulations in this part apply to all persons within or under the jurisdiction of the United States.

§ 110.3 **Definitions.** As used in this part:

(a) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919) including any amendments thereto.

(b) "Agreement for cooperation" means an agreement for cooperation with any nation or regional defense organization pursuant to section 123 of the act.

(c) "Atomic weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separate and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, or weapon prototype, or a weapon test device.

(d) "Commission" means the Atomic Energy Commission or its duly authorized representatives.

(e) "Defense information" means any information in any category determined by any Government agency authorized to classify information, as being information respecting, relating to, or affecting the national defense.

(f) "Nuclear reactor" means an apparatus, other than an atomic weapon, designed or used to sustain nuclear fission in a self-supporting chain reaction.

(g) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission, any State or any political subdivision of, or any political entity within a State; and (2) any legal successor, representative, agent or agency of the foregoing.

(h) "Research and development" means (1) theoretical analysis, exploration, or experimentation; or (2) the extension of investigative facilities and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of motors, devices, equipment, materials, and processes.

(i) "Restricted data" means all data concerning (1) design, manufacturing or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include any data declassified or removed from the restricted data category pursuant to section 142 of the act.

(j) "Source of material" means source material as defined in the regulations contained in Part 40 of this chapter.

(k) "Special nuclear material" means special nuclear material as defined in the regulations contained in Part 70 of this chapter.

(l) "United States", when used in a geographical sense, includes all territories and possessions of the United States, the Canal Zone and Puerto Rico.

§ 110.4 **Communications.** All communications concerning the regulations in this part should be addressed to the United States Atomic Energy Commission, Washington 25, D. C., Attention: Division of Civilian Application.

§ 110.5 **Interpretations.** Except as specifically authorized by the Commission in writing no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 110.6 **Authorization requirement.** Section 57 a. (3) of the act provides that it shall be unlawful for any person to engage directly or indirectly in the production of any special nuclear material outside of the United States except (a) under an agreement for cooperation made with a foreign nation pursuant to section 123 of the act or (b) upon authorization by the Commission after a determination that such activity will not be inimical to the interest of the United States.

§ 110.7 **Generally authorized activities.** (a) Pursuant to section 57 a. (3) (B) of the act, the Atomic Energy Commission has determined that any activity which:

(1) Constitutes directly or indirectly engaging in the production of any special nuclear material in any foreign country

other than countries or areas now or hereafter listed as Subgroup A countries or destinations in § 371.3 of the Comprehensive Export Schedule of the United States Department of Commerce (15 CFR 371.3); and

(2) Does not involve the communication of Restricted Data or other classified defense information; and

(3) Is not in violation of other provisions of law;

will not be inimical to the interest of the United States and is authorized by the Atomic Energy Commission.

(b) Nothing contained in paragraph (a) of this section shall relieve any person from compliance with other provisions of law or regulation, including rules, regulations or orders relating to the export of production or utilization facilities, or source, special nuclear, or byproduct materials, pursuant to the Atomic Energy Act of 1954; the Export Control Act of 1949, as amended; the Mutual Security Act of 1954; or other law.

§ 110.8 *Application for specific authorization.* Any person who proposes to engage directly or indirectly in the production of special nuclear material outside of the United States may apply, unless such proposed activity is authorized pursuant to an agreement for cooperation or is authorized by § 110.7, for a specific authorization to the Atomic Energy Commission, Washington 25, D. C., Attention: Division of Civilian Application.

§ 110.9 *Contents of application.* (a) Each application shall contain the following information:

(1) The full name, address and citizenship of the applicant. If the applicant is a corporation or other entity, it shall indicate the State where it was incorporated or organized, the location of the principal office, and shall furnish information known to the applicant concerning the control or ownership, if any, exercised over the applicant by any alien, foreign corporation or foreign Government. Each application shall contain complete and accurate disclosure with respect to the real party or parties in interest.

(2) A complete statement of the activity for which Commission authorization is requested, including designation of the country or countries involved and a detailed description of the specific project to which such activity relates.

(b) If the application contains restricted data or other defense information, it shall be prepared in such manner that all restricted data and other defense information are separated from the unclassified information.

(c) Information contained in applications, statements or reports otherwise filed by the applicant with the Commission may be incorporated by reference, provided that each such reference is clear and specific.

§ 110.10 *Reports.* (a) Except as provided in paragraph (c) of this section, each person who engages in an activity specified in paragraph (b) of this section shall within 30 days from the commence-

ment of such activity submit a report to the Atomic Energy Commission, Washington 25, D. C., Attention: Division of Civilian Application. Each such report shall contain the following information:

(1) The name, address and citizenship of the person submitting the report;

(2) The name, address and citizenship of the person or persons for whom such activities are performed;

(3) A description of the activity, including its locations.

(b) Activities to be reported:

(1) The design, construction, or operation, outside the United States, of:

(i) A nuclear reactor; or

(ii) A facility for the separation of isotopes of uranium or plutonium; or

(iii) A facility for the chemical, physical or metallurgical processing or fabrication or alloying of special nuclear material; or

(iv) A facility for the production of heavy water, zirconium (hafnium-free or low-hafnium), reactor-grade graphite, or beryllium; or

(2) The design or fabrication outside the United States, of any component part especially designed or fabricated for a nuclear reactor or other facility specified in subparagraph (1) of this paragraph; or

(3) The furnishing of designs, drawings, or other technical data for use outside the United States in the construction or operation of a facility specified in subparagraph (1) of this paragraph or in the fabrication of a component part specified in subparagraph (2) of this paragraph; or

(4) The separation, outside of the United States, of isotopes of uranium or plutonium; or

(5) The production, outside of the United States, of heavy water, zirconium (hafnium-free or low-hafnium), reactor-grade graphite, or beryllium; or

(6) The chemical, physical or metallurgical processing or fabrication or alloying, outside of the United States, of special nuclear material.

(c) The reporting requirements of this section shall not apply to:

(1) Any activity consisting only of (i) the communication of information generally available to the public in published form; or (ii) financial assistance; or (iii) the transmittal of information relating only to conceptual design or performance characteristics of nuclear reactors or facilities; or (iv) the comparative evaluation of types of reactors of facilities; or (v) any combination of the foregoing.

(2) Any person to the extent that such person engages in activity authorized by § 110.7 as the employee of a person required to submit a report pursuant to paragraph (a) of this section.

(3) Any activity specifically authorized by the Commission.

§ 110.11 *Additional information.* The Commission may at any time require any person who engages in activity specified in § 110.10 to submit additional information with respect to such activity.

§ 110.12 *Violations.* An injunction or other court order may be obtained prohibiting any violation of any provision of the act or any regulation or order

issued thereunder. Any person who willfully violates any provision of the act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

§ 110.13 *Effective date.* The regulations in this part are effective upon publication in the FEDERAL REGISTER, except that persons who engaged prior to such publication in activities for which reports are required by § 110.10 shall not be required to submit such reports to the Commission until 30 days after such publication.

NOTE: The reporting requirements contained herein have been approved by The Bureau of The Budget in accordance with the Federal Reports Act of 1942.

Dated at Washington, D. C., this 12th day of January 1956.

K. E. FIELDS,
General Manager.

[F. R. Doc. 56-418; Filed, Jan. 19, 1956; 8:45 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amtd. 149]

PART 608—RESTRICTED AREAS

ALTERATIONS

The restricted area alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy and the Air Force, through the Air Coordinating Committee, Airspace Panel, and are adopted to become effective when indicated in order to promote safety of the flying public. Since a military function of the United States is involved, compliance with the notice, procedure, and effective date, provisions of section 4 of the Administrative Procedure Act is not required.

Part 608 is amended as follows:

1. In § 608.14, the Camp Pendleton, California, area (R-294 formerly D-294), amended on November 18, 1950 in 15 F. R. 7872, is further amended by changing the "Description by Geographical Coordinates" column to read: "Beginning at latitude 33°24'23", longitude 117°15'15"; thence to latitude 33°18'00", longitude 117°16'08"; thence to latitude 33°17'30", longitude 117°16'40"; thence to latitude 33°18'20", longitude 117°21'48"; thence to latitude 33°27'48", longitude 117°33'15"; thence to latitude 33°30'13", longitude 117°29'13"; thence to point of beginning".

2. In § 608.18, the Jacksonville, Florida, area (R-161 formerly D-161), amended on July 7, 1953 in 18 F. R. 3929, is further amended by changing the "Description by Geographical Coordinates" column to read: "Beginning at latitude 30°21'20", longitude 81°55'45"; thence to latitude 30°16'45", longitude 81°50'25"; thence to latitude 30°16'45", longitude 81°40'00"; thence clockwise along the arc of a circle 3 miles in radius centered on a point at latitude 30°14'00", longitude 81°40'00"; to latitude 30°14'10", longitude 81°37'00"; thence to

latitude 30°14'00", longitude 81°36'00"; thence to latitude 30°10'45", longitude 81°35'00"; thence to latitude 29°55'00", longitude 81°35'00"; thence to latitude 29°55'00", longitude 81°55'00"; thence to latitude 29°59'00", longitude 81°55'00"; thence to latitude 29°59'00", longitude 82°02'00"; thence to latitude 30°03'00"; longitude 82°02'00"; thence to latitude 30°03'00"; longitude 82°20'00"; thence to latitude 30°22'00", longitude 82°20'00"; thence to latitude 30°21'20", longitude 81°55'45"; the point of beginning."

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interprets or applies sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This amendment shall become effective February 9, 1956.

[SEAL] C. J. LOWEN,
Administrator of Civil Aeronautics.

[F. R. Doc. 56-470; Filed, Jan. 19, 1956;
8:46 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

Subchapter C—Drugs

PART 130—DRUGS EXEMPTED FROM PRESCRIPTION-DISPENSING REQUIREMENTS OF SECTION 503 (b) (1) (C) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

EXEMPTION OF DICYCLIMINE HYDROCHLORIDE AND NEOMYCIN SULFATE FROM PRESCRIPTION-DISPENSING REQUIREMENTS

The Commissioner of Food and Drugs, in accordance with the Federal Food, Drug, and Cosmetic Act (secs. 503 (b) (3), 505 (c), 701 (a), 65 Stat. 649, 52 Stat. 1052, 1055; 21 U. S. C. 353 (b) (3), 355 (c), 371 (a)) and the authority delegated to him by the Secretary of Health, Education, and Welfare (21 CFR, 1954 Supp., 1.108 (c)), and having considered the comments filed with respect to the notice of proposed rule making published in the FEDERAL REGISTER on November 26, 1955 (20 F. R. 8725) hereby orders the following amendment:

Section 130.1 (a) is amended by adding the following new subparagraphs:

(8) Dicyclimine hydrochloride (1-cyclohexylhexahydrobenzoic acid, β -diethylaminoethyl ester hydrochloride; diethylaminocarbethoxy-bicyclohexyl hydrochloride) preparations meeting all the following conditions:

(i) The dicyclimine hydrochloride is prepared with suitable antacid and other components, in tablet or other dosage form for oral use in self-medication, and containing no drug limited to prescription sale under the provisions of section 503 (b) (1) of the act.

(ii) The dicyclimine hydrochloride and all other components of the preparation meet their professed standards of identity, strength, quality, and purity.

(iii) If the preparation is a new drug, an application pursuant to section 505 (b) of the act is effective for it.

(iv) The preparation contains not more than 5 milligrams of dicyclimine

hydrochloride per dosage unit, or if it is in liquid form not more than 0.5 milligram of dicyclimine hydrochloride per milliliter.

(v) The preparation is labeled with adequate directions for use only by adults and children over 12 years of age, in the temporary relief of gastric hyperacidity.

(vi) The dosages recommended or suggested in the directions for use do not exceed 10 milligrams of dicyclimine hydrochloride per dose or 30 milligrams in a 24-hour period.

(vii) The dosages recommended or suggested in the directions for use do not exceed 10 milligrams of dicyclimine hydrochloride per dose or 30 milligrams in a 24-hour period.

(viii) The labeling bears, in juxtaposition with the dosage recommendations, clear warning statements against:

(a) Exceeding the recommended dosage.

(b) Prolonged use, except as directed by a physician, since persistent or recurring symptoms may indicate a serious disease requiring medical attention.

(c) Administration to children under 12 years of age except as directed by a physician.

(d) Use if dryness of the throat, blurring of vision, dizziness, or rapid pulse occurs.

(9) Neomycin sulfate preparations meeting all the following conditions:

(i) The neomycin sulfate is prepared with a vasoconstrictor, and with or without other drugs, in an aqueous vehicle suitable for administration in self-medication as a nasal spray, or as nose drops, and containing no drug limited to prescription sale under the provisions of section 503 (b) (1) of the act.

(ii) The preparation is packaged with a style of container or assembly suited to self-medication by the recommended route of administration, and delivering not more than 0.1 milliliter of the preparation per spray or per drop.

(iii) The neomycin sulfate and all other components of the preparation meet their professed standards of identity, strength, quality, and purity.

(iv) If the preparation is a new drug, an application pursuant to section 505 (b) of the act is effective for it.

(v) The neomycin sulfate content of the preparation does not exceed the equivalent of 0.8 milligram of standard neomycin base per milliliter.

(vi) The preparation is labeled with adequate directions for use in the temporary relief of nasal congestion due to the common cold and hay fever.

(vii) The dosages recommended or suggested in the directions for use do not exceed: For adults, 3 sprays or 3 drops per nostril per dose, or 5 doses in a 24-hour period; for children over 3 years of age, 2 sprays or 2 drops per nostril per dose, or 5 doses in a 24-hour period.

(viii) The labeling bears, in juxtaposition with the dosage recommendations, clear warning statements against:

(a) Administration to children under 3 years of age, except as directed by a physician.

(b) Exceeding the recommended dosage.

(c) Use in a manner contraindicated by the nature of the vasoconstrictor or other components.

This amendment will remove the drugs mentioned therein from the prescription-dispensing requirements of the Federal Food, Drug, and Cosmetic Act (sec. 503 (b) (1) (C), 52 Stat. 1052, 65 Stat. 649; 21 U. S. C. 353 (b) (1) (C)). These drugs were previously limited by their new-drug applications to use under professional supervision because the scientific data establishing the toxic potential of the drugs and their intended use showed that they were safe only if used under professional supervision.

Pursuant to the regulations in § 1.108 (c) of this subchapter (21 CFR, 1954 Supp., 1.108 (c)), petitions have been submitted to remove the prescription restrictions from these drugs. Evidence now available through investigation and marketing experience shows that the drugs can be safely used by the laity in self-medication if they are used in accordance with the proposed labeling. The restriction to prescription sale is no longer necessary for the protection of the public health.

This action in removing the prior restriction limiting these drugs to prescription sale is taken under the authority of the Federal Food, Drug, and Cosmetic Act (secs. 503 (b) (3), 505 (c), 52 Stat. 1052, 65 Stat. 649; 21 U. S. C. 353 (b) (3), 355 (c)), which provides for and requires the removal of such restrictions if they are not necessary for the protection of the public health.

Effective date. This order shall become effective 30 days after the date of its publication in the FEDERAL REGISTER.

(Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371. Interprets or applies secs. 503, 505, 52 Stat. 1051, as amended, 1052, as amended; 21 U. S. C. 353, 355)

Dated: January 16, 1956.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 56-487; Filed, Jan. 19, 1956;
8:49 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Housing and Home Finance Agency

Subchapter C—Mutual Mortgage Insurance and Servicemen's Mortgage Insurance

PART 221—MUTUAL MORTGAGE INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING ONE- TO FOUR-FAMILY DWELLINGS

Subchapter D—Multifamily and Group Housing Insurance

PART 243—COOPERATIVE HOUSING INSURANCE; ELIGIBILITY REQUIREMENTS FOR INDIVIDUAL MORTGAGES COVERING PROPERTIES RELEASED FROM LIEN OF PROJECT MORTGAGE

PAYMENT AND MATURITY DATES

1. Section 221.18 is amended to read as follows:

§ 221.18 *Payments and maturity dates.* The mortgage should come due on the first of a month and must have a maturity satisfactory to the Commissioner not to be less than 4 nor more than 30 years from the date of the insurance; or three-quarters of the Commissioner's estimate of the remaining economic life of the building improvements, whichever is the lesser. The amortization period should be either 10, 15, 20, 25, or 30 years by providing for either 120, 180, 240, 300, or 360 monthly amortization payments.

2. Section 243.10 is amended to read as follows:

§ 243.10 *Payment and maturity dates.* The mortgage shall come due on the first of a month and must have a maturity satisfactory to the Commissioner, not more than the unexpired term of the project mortgage at the time of the release of the mortgaged property from such project mortgage. The amortization period shall be either 10, 15, 20, 25, 30, 35, or 40 years by providing for 120, 180, 240, 300, 360, 420, or 480 monthly amortization payments.

(Sec. 211, 52 Stat. 23; 12 U. S. C. 1715b)

Issued at Washington, D. C., January 17, 1956.

NORMAN P. MASON,
Federal Housing Commissioner.

[F. R. Doc. 56-485; Filed, Jan. 19, 1956; 8:48 a. m.]

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

PART 130—OPERATION AND MAINTENANCE CHARGES

FINE RIVER INDIAN IRRIGATION PROJECT, COLORADO

On October 29, 1955, there was published in the *FEDERAL REGISTER*, 20 F. R. 8163, notice of intention to amend § 130.55 *Charges* of Title 25, Code of Federal Regulations, Chapter I. Interested persons were thereby given opportunity to participate in preparing the amendment by submitting their views, data or arguments in writing within 30 days from the date of publication of the notice of intention. No objections were submitted. Accordingly § 130.55 is as follows, to be effective for the year of 1956 and thereafter until further notice:

§ 130.55 *Charges.* Pursuant to the provisions of the acts of August 1, 1914 (38 Stat. 583; 25 U. S. C., sec. 385) and March 7, 1928 (45 Stat. 200, 210), the annual basic charge for operation and maintenance assessed against the irrigable lands of the Pine River Indian Irrigation Project, Colorado, to which water can be delivered and beneficially applied under the constructed works of the project, is hereby fixed at \$2.00 per acre per annum for the year 1956 and thereafter until further notice.

(Secs. 1, 3, 36 Stat. 270, 272 as amended; 25 U. S. C. 385)

W. WADE HEAD,
Area Director.

[F. R. Doc. 56-475; Filed, Jan. 19, 1956; 8:47 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 202—ANCHORAGE REGULATIONS

PART 204—DANGER ZONE REGULATIONS

HAMPTON ROADS, VIRGINIA; ATLANTIC OCEAN OFF MONTAUK POINT, N. Y.

1. Pursuant to the provisions of section 7 of the River and Harbor Act of March 4, 1915 (38 Stat. 1053; 33 U. S. C. 471), the opening portion of § 202.168 (a) (1), prescribing an anchorage area in the waters over Hampton Bar is hereby amended by revision of the boundaries to release the northeast portion for other uses, as follows:

§ 202.168 *Hampton Roads, Va., and adjacent waters—(a) Hampton Roads—(1) Anchorage A, Hampton Bar.* South of a line running from latitude 37°00'45", longitude 76°20'36", across the mouth of Hampton Creek to latitude 37°00'47", longitude 76°19'56"; thence along the shore to a point east of Mill Creek at latitude 37°00'44", longitude 76°19'38"; thence to latitude 37°00'15", longitude 76°19'29"; thence to latitude 36°59'33", longitude 76°18'57"; thence to latitude 36°59'11", longitude 76°19'00"; thence to latitude 36°59'09", longitude 76°19'05"; thence to latitude 37°00'00", longitude 76°22'08"; and thence northeast along the shoreline to the point of beginning.

[Regs., 29 December 1955, 800.212 (Hampton Roads, Va.)—ENGWO] (38 Stat. 1053; 33 U. S. C. 471)

2. Pursuant to the provisions of Chapter XIX of the Army Appropriations Act of July 9, 1918 (40 Stat. 892; 33 U. S. C. 3) and section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1), § 204.15 establishing and governing the use of an antiaircraft artillery firing range in the Atlantic Ocean off Camp Hero Military Reservation, Montauk, New York, is amended, eliminating the reference to aircraft in paragraph (b) (4), such subparagraph to read as follows:

§ 204.15 *Atlantic Ocean off Camp Hero Military Reservation, Montauk, N. Y.; antiaircraft artillery firing range, First Army.* * * *

(b) *The regulations.* * * *
(4) Prior to and during such firing practice the danger zones will be patrolled by Army-controlled vessels. They will insure that no watercraft are within the danger zones and will warn any watercraft found therein that firing practice is to take place. Any such watercraft shall, upon being so warned, immediately leave the danger zone and shall remain outside until the conclusion of the firing practice.

[Regs., 3 January 1956, 800.2121 (Atlantic Ocean, N. Y.)—ENGWO] (40 Stat. 266, 892; 33 U. S. C. 1, 3)

3. Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1), § 204.50 establishing and governing the use and navigation of a danger zone

in Hampton Roads and Chesapeake Bay off Fort Monroe, Virginia, is hereby amended by revision of the boundaries to release a portion of the area for other uses, changing paragraph (a) to read as follows:

§ 204.50 *Chesapeake Bay off Fort Monroe, Va.; restricted area. U. S. Army Submarine Mine Depot and Naval Ordnance Laboratory—(a) The danger zone.* Beginning at latitude 37°00'30", longitude 76°18'05"; thence to latitude 37°00'38", longitude 76°17'42"; thence to latitude 37°01'00", longitude 76°17'15"; thence to latitude 37°01'00", longitude 76°16'11"; thence to latitude 36°59'43", longitude 76°16'11"; thence to latitude 36°59'18", longitude 76°17'52"; thence to latitude 37°00'05", longitude 76°18'17"; and thence north along the seawall to the point of beginning.

[Regs., 29 December 1955, 800.212 (Hampton Roads, Va.)—ENGWO] (40 Stat. 266; 33 U. S. C. 1)

[SEAL]

JOHN A. KLEIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 56-469; Filed, Jan. 19, 1956; 8:45 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 36—SERVICEMEN'S READJUSTMENT ACT OF 1944

SUBPART A—TITLE III; LOAN GUARANTY DOWNPAYMENT LIMITATIONS, MATURITY OF LOAN

1. Section 36.4356 is revised to read as follows:

§ 36.4356 *Downpayment limitations.* Any loan for the purchase or construction of residential property closed on or after January 20, 1956, which is proposed to be guaranteed under section 501 of the act shall be eligible for guaranty if the request for appraisal has been or is received on or after July 30, 1955, provided the veteran makes a cash payment of not less than 2 percent of the purchase price of the property, except that this requirement shall not apply to loans made solely for the replacement or reconstruction of residential property which has been destroyed or substantially damaged by flood, fire, or other similar casualty.

2. Section 36.4505 is revised to read as follows:

§ 36.4505 *Maturity of loan.* The maturity of a loan shall not exceed 20 years, except that if Veterans Administration determines that the income and expenses of a veteran-applicant at the time of his application for a loan, or at the time of closing of the loan, are such that under customary credit standards he would be unable to maintain the required schedule of amortized payments for a loan which matures in 20 years, but that taking into consideration the veteran's current and prospective income and expenses he would be able to make the payments on the loan if amortized over

a longer period of time, the loan may be made with a maturity for such longer period of time but not in excess of 30 years: *Provided*, That in no event will the maturity exceed the estimated economic life of the property securing the loan. Nothing in this section shall preclude extension of the loan pursuant to the provisions of § 36.4506.

(Sec. 504, 58 Stat. 293, as amended; 38 U. S. C. 694d)

This regulation is effective January 20, 1956.

[SEAL] J. C. PALMER,
Assistant Deputy Administrator.

[F. R. Doc. 56-502; Filed, Jan. 19, 1956;
8:52 a. m.]

TITLE 46—SHIPPING

Chapter II—Federal Maritime Board, Maritime Administration, Department of Commerce

Subchapter A—Policy, Practice and Procedure [Gen. Order 78]

PART 205—AUDIT APPEALS; POLICY AND PROCEDURE

PART 285—DETERMINATION OF PROFIT IN CONTRACTS AND SUBCONTRACTS FOR CON- STRUCTION, RECONDITIONING, OR RECON- STRUCTION OF SHIPS

MISCELLANEOUS AMENDMENTS

1. The heading for Subchapter A is changed to read "Policy, Practice and Procedure."

2. Effective as of January 4, 1956, a new part designated as "Part 205" is hereby added to this Title 46 to read as follows:

- Sec.
205.1 Purpose.
205.2 Policy.
205.3 Procedure.
205.4 Finality of decisions.

AUTHORITY: §§ 205.1 to 205.4 Issued under sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 1114. Interpret or apply secs. 505, 801, 49 Stat. 1998, as amended, 2011; 46 U. S. C. 1155, 1212.

§ 205.1 *Purpose.* To set forth the policy and procedure to be followed by ship operators holding subsidy, charter, or service agreements, by ship construction contractors and subcontractors, and by parties to other contracts entered into by the Federal Maritime Board or the Maritime Administration under its authorities, in making appeals against the findings of annual or special audits made by the Maritime Administration pursuant to the provisions of such contracts.

§ 205.2 *Policy.* Any contractor or subcontractor who disagrees with the findings, interpretations, or decisions reflected in an audit report of the Maritime Administration and who fails to settle said differences by negotiation with the particular Comptroller's office responsible for finalization of the report, may submit an appeal against such findings in accordance with the procedure set forth in this part.

§ 205.3 *Procedure.* (a) Appeals, as described in § 205.2, shall be made to the

Maritime Administrator, in writing, within six months following the date of the document notifying the contractor or subcontractor of the final audit findings of the Comptroller's office, or following the date of this order, whichever is later. However, the Maritime Administrator may, at his discretion, extend this limitation in the case of extenuating circumstances.

(b) The appellant will be notified, in writing, if a hearing is to be held or if additional facts are to be submitted for consideration in connection with his appeal.

(c) After a decision has been rendered by the Maritime Administrator, the appellant will be notified accordingly, in writing.

§ 205.4 *Finality of decisions.* Decisions of the Maritime Administrator rendered under this part shall be final.

3. The provisions of 46 CFR Part 285 (General Order 30, Revised) or of any other part of this title, which are inconsistent or in conflict with the provisions of this part, are hereby amended or superseded accordingly.

Dated: January 3, 1956.

[SEAL] CLARENCE G. MORSE,
Chairman,
Federal Maritime Board,
Maritime Administrator.

[F. R. Doc. 56-503; Filed, Jan. 19, 1956;
8:53 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 8288; FCC 56-38]

- PART 5—EXPERIMENTAL RADIO SERVICES
PART 10—PUBLIC SAFETY RADIO SERVICES
PART 11—INDUSTRIAL RADIO SERVICES
PART 13—COMMERCIAL RADIO OPERATORS
PART 16—LAND TRANSPORTATION RADIO
SERVICES

OPERATION OF CERTAIN LICENSED RADIO STATIONS BY UNLICENSED PERSONNEL

1. On May 10, 1946, the Commission adopted Order 133,¹ providing for the operation, under certain circumstances, of mobile and portable radio transmitting equipment by unlicensed personnel. Relative thereto, the Commission, on April 25, 1947, released a Notice of Proposed Rule Making with a view to permitting certain adjustments to be made to mobile transmitters by unlicensed personnel. On May 16 and May 26, 1947, the Commission released supplemental Notices of Proposed Rule Making in the above entitled matter, proposing to permit unlicensed persons to make antenna tuning and coupling adjustments of mobile station transmitters when authorized to do so by the station licensee, and to limit the rule-making proceeding to those mobile stations which were being licensed in the Experimental Service looking to common carrier operation on a regular basis in the General Mobile Radio

¹ 11 F. R. 5544.

Service. On October 24, 1947, a third supplemental Notice of Proposed Rule Making was issued in this proceeding proposing to amend Parts 2, 5, 10, 11, 13, 16 and 17 of the rules by incorporating therein provisions which would permit unlicensed personnel, when authorized by the station licensee, to operate and make certain adjustments on portable and mobile radio transmitters authorized for use in the Experimental, Emergency, Miscellaneous, Railroad, and Utility Radio Services.

2. The Commission, by its action of April 27, 1949 (see FEDERAL REGISTER May 6, 1949), finalized the proceedings in Docket Nos. 9001, 9018, 9046 and 9047, and by its action of February 11, 1953 (see FEDERAL REGISTER February 25, 1953), finalized the proceedings in Docket No. 9751. The finalization of these Docket proceedings resulted in the promulgation of Parts 5, 6, 10, 11 and 16, which prescribed the operator requirements for mobile stations in the Experimental Radio Services, Domestic Public Land Mobile Radio Service, Public Safety Radio Services, and Land Transportation Radio Services. Portable radio stations are no longer recognized in our rules and, therefore, it is not necessary to make provision for them.

3. Accordingly, it is ordered, This 11th day of January 1956, that Order No. 133 is rescinded and then proceeding in Docket No. 8288 is terminated and dismissed as moot.

Released: January 13, 1956.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] WM. P. MASSING,
Acting Secretary.

[F. R. Doc. 56-421; Filed, Jan. 19, 1956;
8:45 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

PART 6—MIGRATORY BIRDS AND CERTAIN GAME MAMMALS

ORDER PERMITTING THE KILLING OF AMERICAN MERGANSERS ON OR OVER CERTAIN SPECIFIED LAKES AND STREAMS IN WESTERN WASHINGTON

Pursuant to authority conferred upon me by order of the Secretary of the Interior, dated January 13, 1956, I have determined that the number of American mergansers now present and likely to continue to be present in western Washington is such as to constitute a serious threat to the trout populations in certain lakes and streams through depredations by these birds. Accordingly, an emergency is found to exist, and to protect such fish which are threatened by such birds the killing of American mergansers as are found damaging trout in the lakes and streams listed below is hereby permitted, beginning this date, and continuing until formally terminated, but in no event beyond April 15, 1956; such killing to be conducted in compliance with State law and subject to terms, conditions, and restrictions as follows:

1. American mergansers may be killed during the daylight hours only on or over the following lakes and streams in western Washington when committing or about to commit serious injuries to such trout:

Clark County: LaCamas Lake.
Cowlitz County: Silver Lake, Yale Reservoir.
Island County: Cranberry Lake.
King County: Ames Lake, Beaver Lake, Desire Lake, Joy Lake, Meridian Lake, Morton Lake, North Lake, Pine Lake, Shadow Lake, Shady Lake, Steel Lake, Wilderness Lake.
Kitsap County: Kitsap Lake, Mission Lake, Scout Lake, Wildcat Lake.
Mason County: Aldrich Lake, Benson Lake, Cady Lake, Clara Lake, Haven Lake, Isabella Lake, Nahwatzel Lake, Panther Lake, Phillips Lake, Spencer Lake, Tiger Lake, Trask Lake, Twin Lake, U Lake, Wooten Lake.
Pacific County: Loomis Lake.

Pierce County: Bay Lake, Clear Lake (Eatonville), Crescent Lake, Spanaway Lake, Tanwax Lake.

San Juan County: Hummel Lake.
Skagit County: Beaver Lake, Cavanaugh Lake, Clear Lake, Hart Lake, Pass Lake.

Snohomish County: Bosworth Lake, Crabapple Lake, Flowing Lake, Goodwin Lake, K1 Lake, Loma Lake, Martha Lake, (Alderwood Manor), Martha Lake (Warm Beach), Roessiger Lake, Serene Lake (Hwy. 99), Shoecraft Lake, Silver Lake, Storm Lake, Wagner Lake.

Thurston County: Clear Lake (Bald Hills), Deep Lake, Hicks Lake, Lawrence Lake, McIntosh Lake, Offut Lake, Summit Lake, Ward Lake.

Whatcom County: Silver Lake.
Streams: Chehalis River, Cowlitz River, Dosewallips River, Duckabush River, Dungeness River, Elochoman River, Grays River, Green River, Humptulips River, Kalama River, Lewis River and Forks, Newaukum River, North River, Nooksack River, Puyallup River, Salmon Creek, Satsop River, Skagit River, Skokomish River, Skykomish River,

Snohomish River, Snoqualmie River, Sol Duc River, Soos Creek, Stillaguamish River, Tilton River, Tolt River, Toutle River, Washougal River, Willapa River, Wind River, Wynooche River.

2. American mergansers may be taken only by shooting with a shotgun not larger than No. 10 gauge fired from the shoulder.

3. Such birds as are killed hereunder may be used for food within the State of Washington, but they may not be sold, offered for sale, bartered, or shipped for purposes of sale or barter, or be wantonly wasted or destroyed.

Issued at Washington, D. C., and dated January 16, 1956.

JOHN L. FARLEY,
Director.

[F. R. Doc. 56-474; Filed, Jan. 19, 1956; 8:46 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 912]

[Docket No. AO 29-A9]

MILK IN DUBUQUE, IOWA, MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER, AS AMENDED, REGULATING HANDLING

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), hereinafter referred to as the act and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to a proposed marketing agreement and a proposed order amending the order, as amended, regulating the handling of milk in the Dubuque, Iowa, marketing area. Interested parties may file exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 10th day after publication of this decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed marketing agreement and order was formulated was conducted at Dubuque, Iowa, on June 29 and July 13-14, 1955, pursuant to notice thereof which was issued on March 29, 1955, and the supplemental notice of hearing which was

issued on June 7, 1955 (20 F. R. 2060, 2773, and 4092).

The material issues of record related to:

1. Eliminating the payment required on milk moving to Dubuque from a lower priced Federally regulated market;
2. Changing from a market-wide pool to an individual-handler pool;
3. Revising the classification and pricing provisions and eliminating the Class III classification of milk;
4. Revising the price of Class III milk;
5. Changing the method of allocating other source milk received from other Federally regulated markets; and
6. Revising certain definitions.

Findings and conclusions. The following findings and conclusions on the material issues are based on the record.

1. **Payments on intermarket movements of milk.** With respect to the elimination of the payment which was required on milk moved to Dubuque from other Federally regulated markets in which the Class I price was lower than that prevailing in the Dubuque market, the record showed a need for immediate attention and the provisions requiring such a payment were terminated in a separate action (20 F. R. 6054).

2. **Type of pooling.** No change should be made in the present method of pooling.

One of the handlers proposed that the present market-wide pool be abandoned and that an individual-handler pool be substituted. This proposal was opposed by all parties of interest except the proponent who appeared at the hearing.

Only one handler in the market maintains manufacturing facilities. Most of the remaining handlers, however, rely on the cooperative association to care for whatever milk is produced in excess of the market's requirements for Class I milk and related uses during the months of flush production. These handlers, likewise rely on the cooperative association to furnish them with supplemental milk when supplies are short.

Under the market-wide pool the cooperative association is in a position to balance the supplies of the handlers without adversely affecting the returns to its producers. If an individual handler pool were adopted the cooperative association would be forced to abandon this service which it presently provides for handlers (and through them for non-member producers) and seek a larger proportion of the Class I utilization for its members particularly during the months of flush production. This could lead only to a disruption of the orderly marketing process and bring about instability.

Under an individual-handler pool, those handlers with the lower uniform prices would be forced to take steps to increase the uniform price payable to their producers. Otherwise the more desirable producers would gravitate to the plants of the high utilization handlers, including the proponent, who would then be in a position to select the more desirable producers and cut off the smaller, less desirable, producers. The struggle for an increased share of the Class I market would undoubtedly lead to price cutting and a general demoralization of the market. Many producers who have been a part of the market for many years and who have substantial investments in Grade A facilities would be forced off the market. Clearly such a development would not be in the interest of stable and orderly marketing of the milk supply for the Dubuque market.

In support of the individual-handler pool the proponent argued that supplies of milk at the present time were greater than the Class I needs of the market and that a change in the method of pooling would decrease the supply. The record, however, shows that an adjustment in the relationship of supply to demand is taking place at the present time. In each of the first six months of 1955, the number of producers was smaller than in the corresponding month in 1954. Likewise, both the volume and the per-

centage of producer milk in Class I in each of these months were greater in 1955 than in 1954.

3. *Revision of classification.* The classification provided in the order should be changed to classify aerated cream products as Class II. The order should continue to provide for three classes of utilization.

The same handler who proposed changing to an individual-handler pool, proposed that aerated cream products and eggnog be classified as Class II and that the description of the items in each class be enlarged to specify by name other products, not now produced in the market, which might at some time in the future be manufactured. He also proposed that the present Class III classification be eliminated and all manufactured dairy products be classified as Class II and priced at the Class II price. Currently, Class III consists of the butterfat and skim milk manufactured into butter, American type Cheddar cheese, and nonfat dry milk solids as well as allowable plant shrinkage.

Aerated cream products are not manufactured by any handler subject to regulation under the order. One or more of the handlers, however, acts as a jobber for such products which are produced elsewhere. It appears further that this product is not regulated by local health authorities and that Grade A milk is not required in its production. Accordingly, aerated products should be classified as Class II milk rather than as Class I.

With respect to eggnog the situation is quite different. Eggnog is made by the handlers from Grade A producer milk. There is no showing that the health authorities would permit it to be produced from other than Grade A ingredients. Accordingly, it is concluded that it should be continued as a Class I product.

Facilities for handling excess milk in the market are very limited. Except for such milk as can be utilized in cottage cheese and ice cream, it must be manufactured into American type Cheddar cheese or transported to plants some distance from the market. Dubuque is located in a heavy cheese producing area. The only plants located within the marketing area or within reasonable hauling distance of Dubuque which are in a position to accept the excess milk of the market are cheese factories. One or more of these plants manufacture Swiss cheese which is a Class II item. During most of the year the excess supplies of Dubuque are disposed of to these Swiss cheese makers and very little producer milk is manufactured into Cheddar cheese.

There are, however, occasions, particularly during the months of flush production, when receipts of milk from regular sources at the Swiss cheese plants are such that they are unwilling to handle the excess supplies of the Dubuque market. When this happens, a portion of the excess milk is manufactured into Cheddar cheese in the local plants and the remainder is diverted to Cheddar cheese plants in the milkshed. Retaining a separate classification for milk dis-

posed of for the manufacture of Cheddar cheese will facilitate the handling of the reserve supplies of the market when it is impossible to dispose of such milk for other purposes, and it will prevent the disruption of the orderly marketing of milk which might occur if milk utilized in Cheddar cheese were classified as Class II milk and priced at the present Class II price.

4. *The pricing of Class III milk.* The price of Class III milk should be increased. The present formula for pricing Class III milk has remained unchanged for several years. It is somewhat lower than similar formulas provided in most other orders and does not reflect the true value of milk utilized in Class III.

The handler who proposed the abandonment of the Class III classification urged that no milk used in manufactured dairy products should be priced below the level of the prices paid by the condenseries whose paying price is used as one of the alternative formulas for pricing Class II milk. The record evidence, however, reveals that cheese factories in Wisconsin normally pay slightly less for milk than the paying price of the condenseries and that the average prices paid by cheese factories in Iowa and Illinois are somewhat below those being paid by plants in Wisconsin.

In pricing the reserve supplies of milk for the Dubuque market, it must be borne in mind that the only readily available outlets for reserve milk which can not be absorbed in cottage cheese and ice cream are the cheese factories in and adjacent to the milkshed. Until such time as other facilities are available, Class III milk must be priced at a level which will permit the disposition of such milk. If such milk were to be priced at a prohibitive level handlers would refuse to accept milk from producers and the orderly marketing of milk would be seriously disrupted.

The producer's cooperative association which handles all of the excess of the handlers who purchase milk from them proposed that the Class III price be fixed 10 cents under the price paid by the condenseries which are used in determining one of the alternative Class II prices. The association operates a plant where milk may be received and cooled and where some milk is manufactured into ice cream, but it has no facilities for manufacturing other products and must dispose of any additional milk to cheese factories. It is contended that it costs them at least 10 cents per hundredweight to transport the milk to the cheese factories. Since these cheese factories, as evidenced by the record, generally pay less for milk than do the condenseries, it appears that such a price would furnish handlers with a strong incentive to seek other more profitable outlets for such milk.

The one handler who has cheese making facilities testified that such facilities were used only when it was impossible to dispose of milk in a higher utilization. He testified that all of his excess receipts were diverted to Swiss cheese factories whenever they would accept such milk and that the cheese making facilities were used only when he had no other

alternative. This handler said that, even at the present level of the Class III price, it was not profitable to manufacture Cheddar cheese. Because of the relatively small volume of milk handled, his plant is not in a position to dispose of its cheese in carlots under the support program and must sell its output to assemblers. It was testified that the price received for such cheese was from 2 to 3 cents below the support level and thus the handler was able to recover from milk manufactured into Cheddar cheese little more than the present Class III price. This handler was opposed to any change being made in the price of milk utilized in cheese at the present time and urged that any change in the level of Class III prices be delayed until such time as the market could develop other facilities for disposing of the reserve supplies.

Under the conditions prevailing in the Dubuque market, it appears that while the Class III classification should be continued, some increase in the price of milk utilized in this classification is necessary. As noted above, the cooperative association proposed that the price be 10 cents less than the paying price of the condenseries used in determining the Class II price. There is an alternative Class II price based on the market values of butter and Cheddar cheese which becomes the effective price for Class II milk whenever it results in a higher price than that paid by the condenseries. This formula was incorporated in the order to more nearly reflect market values of manufactured dairy products in periods when the condenseries' paying price might be abnormally low in relation to the general level of dairy product prices as evidenced by the markets for butter and Cheddar cheese. Adoption of a Class III price equal to the Class II price less 10 cents would therefore more nearly reflect the value of milk used in Cheddar cheese than would one based only on the condensery paying price. Such a price would not be so high as to cause handlers to refuse to accept milk from producers, yet would be sufficiently high to force them to seek to dispose of such milk in a higher utilization. It is concluded, therefore, that the price of Class III milk should be the price of Class II milk, minus 10 cents.

5. *The allocation of other source milk.* Some changes should be made in the present method of allocating other source milk received from other Federally regulated markets.

One of the handlers proposed that other source milk received in packaged form should be allocated to Class I before any producer milk was allocated to Class I. This handler receives in packaged form from a plant subject to regulation under the Chicago order a portion of the milk which it disposes of as Class I milk. The record also shows that some Class I milk in packaged form, in turn, is transferred from the Dubuque plant to the plant under the Chicago order. At the present time, the milk received from the Chicago plant is allocated to Class I only to the extent that total Class I sales may exceed receipts of producer milk. Because of the allocation provi-

sions of the Dubuque and Chicago orders this may result in some milk for which the handler is required to pay the Class I price under the Chicago order being allocated to Class II. On the other hand, if the proposal of the handler were adopted that all milk received from another market be allocated to Class I before any producer milk were so allocated, it would result in a substantial quantity of producer milk being displaced for Class I purposes by other source milk which is not needed to meet the demands of the market and is imported only for the convenience of the handler. In view of the fact, however, that producer milk packaged in Dubuque is returned to the Chicago plant it appears that it would be equitable to permit one to offset the other. It is concluded, therefore, that in the case of a plant which receives packaged milk for Class I use from another Federally regulated market such milk should be permitted to be subtracted from Class I utilization up to the extent of the Class I milk which is moved from the Dubuque plant to the plant which furnished the other source milk to the Dubuque market.

No change should be made in the allocation of other source milk which may be received from nonregulated sources. The Dubuque order contains no provision for assessing a payment on other source milk which is utilized in Class I. Thus, to permit other source milk from unregulated sources to displace producer milk might result in giving the handler who receives such milk a competitive advantage over other handlers who purchase milk at the Class I prices provided in the order and could lead only to a disruption of the orderly marketing processes. Such a practice would also result in lowering the uniform price to those producers who have assumed the obligation of supplying the Dubuque market with an adequate supply of milk and might result in the necessity of increasing Class I prices in order to provide an adequate return to these producers for the milk which they produce.

6. Revision of other definitions. Minor changes in the definitions of "producer" and "handler" have been made as a result of the evidence submitted. These are for the most part changes in terminology and will not affect the present application of the order to handlers or the producers whose milk would be regulated by it.

Several other proposed amendments were included in the notice of the hearing. These, however, were abandoned by the proponents at the hearing and no evidence was received with respect to them.

It is several years since the Dubuque order was last revised. In the meantime, the Federal Register regulations have been changed and the system of numbering Federal milk orders has been revised. It appears desirable at this time, to renumber the provisions of the Dubuque order in accordance with the present Federal Register regulations. In revising the order some minor changes in the text were adopted to bring the language of the order more nearly into conformity with the present practice.

These changes, however, have not in any way affected the substantive provisions of the order and, except as noted above, the remaining provisions of the order will continue in their present form.

General findings. (a) The proposed marketing agreement and the order amending the order, as amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The parity prices for milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feed, available supplies of feeds and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order amending the order, as amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The proposed order amending the order, as amended, will regulate the handling of milk in the same manner as and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Proposed findings and conclusions. Briefs were filed on behalf of the producers' cooperative associations and some of the handlers in the market. The briefs contained proposed findings of fact, conclusions and arguments with respect to the proposals discussed at the hearing. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that such findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein the request to make such requested findings or to reach such conclusions is denied on the basis of the facts found and stated in connection with the conclusions in this decision.

Recommended marketing agreement and order. The following order, amending the order, as amended, is recommended as the detailed and appropriate means by which these conclusions may be carried out. The proposed marketing agreement is not included because the regulatory provisions thereof would be the same as those contained in the order.

DEFINITIONS

§ 912.1 Act. "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended, by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 912.2 Secretary. "Secretary" means the Secretary of Agriculture or such other officer or employee of the United States as may be authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 912.3 Dubuque, Iowa, Marketing Area. "Dubuque, Iowa, marketing area," hereinafter called the "marketing area," means the territory within the corporate

limits of the city of Dubuque and the township of Dubuque, sections 1, 2, 3, 11 and 12, of the township of Table Mound and sections 5 and 6 of the township of Mosalem, all in Dubuque County, Iowa.

§ 912.4 Butter price. "Butter price" means the simple average of the wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the United States Department of Agriculture during the delivery period.

§ 912.5 Person. "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 912.6 Delivery period. "Delivery period" means the calendar month or the total portion thereof during which this order is in effect.

§ 912.7 Cooperative association. "Cooperative association" means any cooperative marketing association of producers which the Secretary determines (a) is qualified under the provisions of the act of Congress of February 11, 1922, as amended, known as the "Capper-Volstead Act;" (b) has full authority in the sale of milk of its members; and (c) is engaged in making collective sales of or marketing milk or its products for its members.

§ 912.8 Producer. "Producer" means any person who, in conformity with the requirements of an applicable health authority, produces milk which is permitted by the health authorities of the city of Dubuque to be disposed of for consumption as Grade A milk and which (a) is received at the plant of a handler, or (b) is caused by a handler to be diverted from the plant of the handler to the plant of a nonhandler for the account of such handler. This definition shall not include a person with respect to milk produced by him which is received by a handler who is subject to another marketing order issued pursuant to the act and who is partially exempt from the provisions of this order pursuant to § 912.56.

§ 912.9 Handler. "Handler" means (a) any person in his capacity as the operator of (1) a milk processing plant from which milk is disposed of on wholesale or retail routes (including plant stores) within the marketing area, or (2) a plant which is under regular inspection of the city of Dubuque and from which Class I milk is transferred to a plant described in subparagraph (1) of this section; and (b) a cooperative association with respect to the milk of member producers which it causes to be diverted to the plant of a nonhandler for the account of the association. Milk so diverted shall be deemed to have been received by the cooperative association.

§ 912.10 Producer-handler. "Producer-handler" means any person who is both a producer and a handler and who receives no milk directly from the farms of other producers: *Provided*, That the maintenance, care and management of the dairy animals and other resources necessary to produce the milk and the processing, packaging and distribution

of the milk are the personal enterprise and the personal risk of such person.

§ 912.11 Producer milk. "Producer milk" means all skim milk and butterfat which is produced by a producer, other than a producer-handler, and which is received by a handler either directly from producers or from other handlers.

§ 912.12 Other source milk. "Other source milk" means all skim milk and butterfat received by a handler except that contained in producer milk.

MARKET ADMINISTRATOR

§ 912.20 Designation. The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by and shall be subject to removal at the discretion of the Secretary.

§ 912.21 Powers. The market administrator shall have the power to:

- (a) Administer the terms and provisions hereof;
- (b) Make rules and regulations to effectuate the terms and provisions hereof;
- (c) Receive, investigate, and report to the Secretary complaints of violations of the terms and provisions hereof; and
- (d) Recommend to the Secretary amendments hereto.

§ 912.22 Duties. The market administrator shall perform all duties necessary to administer the terms and provisions hereof including but not limited to the following:

- (a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties, and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;
- (b) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof;
- (c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;
- (d) Pay out of the funds provided by § 912.80, the cost of his bond and the bonds of his employees, his own compensation and all other expenses, except those incurred under § 912.81, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;
- (e) Keep such books and records as will clearly reflect the transactions provided for herein, and upon request by the Secretary surrender the same to such other person as the Secretary may designate;
- (f) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate the name of any person who,

within 10 days of the date on which he is required to perform such acts, has not made reports pursuant to § 912.30, or payments pursuant to §§ 912.70, 912.73, 912.75, 912.80 and 912.81;

(g) Audit each handler's records and payments by inspection of such handler's records and the records of any other person upon whose utilization the classification of skim milk and butterfat for such handler depends;

(h) On or before the 10th day after the end of each delivery period report to each cooperative association which so requests the utilization of the milk caused to be delivered to each handler by such cooperative association. For this purpose such milk shall be prorated to each class in the same proportion that total receipts of producer milk by such handler were used in each class;

(i) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the prices determined for each delivery period as follows:

- (1) On or before the 5th day of each delivery period (i) the minimum price for Class I milk computed pursuant to § 912.50 (a), and the butterfat differential computed pursuant to § 912.51 (a), both for the current delivery period, and (ii) the minimum prices for Class II milk and Class III milk computed pursuant to § 912.50 (b) and (c), and the butterfat differentials computed pursuant to § 912.51 (b) and (c) for the preceding delivery period, and
- (2) On or before the 10th day after the end of the delivery period the uniform price computed pursuant to § 912.61 and the butterfat differential computed pursuant to § 912.71; and
- (j) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS AND FACILITIES

§ 912.30 Delivery period reports of receipts and utilization. On or before the 7th day after the end of each delivery period each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

- (a) The quantities of skim milk and butterfat contained in milk received from producers;
- (b) The quantities of skim milk and butterfat contained in (or used in the production of) receipts from any other handler;
- (c) The quantities of skim milk and butterfat contained in receipts of other source milk (except nonfluid milk products disposed of in the form in which received without further processing by the handler);
- (d) The utilization of all receipts required to be reported pursuant to this section; and
- (e) Such other information with respect to such receipts and utilization as the market administrator may prescribe.

§ 912.31 Other reports. (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) On or before the 20th day of each delivery period each handler shall submit to the market administrator such handler's producer payroll for the preceding delivery period which shall show:

- (1) The total pounds of milk received from each producer and cooperative association and the total pounds of butterfat contained in such milk, (2) the amount of payment to each producer and cooperative association, and (3) the nature and amount of any deductions involved in such payments.

§ 912.32 Records and facilities. Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or to establish the correct data with respect to:

- (a) The receipts and utilization in whatever form of all skim milk and butterfat received, including nonfluid milk products disposed of in the form in which received without further processing;
- (b) The weights and tests for butterfat and other contents of all milk, skim milk, cream and milk products handled;
- (c) Payments to producers and cooperative associations; and
- (d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream and milk products on hand at the beginning and end of each delivery period.

§ 912.33 Retention of records. All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if, within such three-year period the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records as specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 912.40 Skim milk and butterfat to be classified. All skim milk and butterfat in any form received by a handler during the delivery period and required to be reported pursuant to § 912.30 shall be classified by the market administrator pursuant to the provisions of §§ 912.41 through 912.46.

§ 912.41 Classes of utilization. Subject to the conditions set forth in §§ 912.43, and 912.44 the classes of utilization shall be as follows:

- (a) *Class I milk.* Class I milk shall be all skim milk (including reconstituted

skim milk) and butterfat disposed of in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream, or any mixture (except mixes for ice cream and frozen desserts) of cream and milk or skim milk containing more than 6 percent of butterfat and all skim milk and butterfat not specifically accounted for under paragraphs (b) and (c) of this paragraph;

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat (1) used to produce evaporated milk, condensed milk, ice cream, mixes for ice cream and frozen desserts, cottage cheese, and any milk product other than those specified in paragraphs (a) and (c) of this section, or (2) disposed of to wholesale manufacturers of food products; and

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat (1) used to produce butter, American type Cheddar cheese, animal feed, casein, and non-fat dry milk solids, (2) in shrinkage up to 2 percent of receipts from producers, and (3) in shrinkage of other source milk.

§ 912.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat received from producers and from other sources.

§ 912.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise; and

(b) Any skim milk or butterfat (except that transferred to a producer-handler) shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 912.44 *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified as follows:

(a) As Class I milk if transferred or diverted in the form of milk, skim milk, or cream to another handler, except a producer-handler, unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the delivery period within which such transaction occurred, but in no event shall the amount classified in any class exceed the total use in such class by the transferee handler: *Provided*, That, if either or both handlers have received other source milk, the milk so disposed of shall be classified at both plants so as to return the higher class utilization to producer milk;

(b) As Class I milk if transferred to a producer-handler in the form of milk, skim milk or cream;

(c) As Class I milk if transferred or diverted in the form of milk, skim milk or cream to a nonhandler's plant unless (1) the handler claims other classifica-

tion on the basis of utilization mutually indicated in writing to the market administrator by both the handler and nonhandler on or before the 7th day after the end of the delivery period within which such transfer or diversion occurred, (2) such nonhandler maintains books and records showing the utilization of all skim milk and butterfat at his plant, which are made available if requested by the market administrator for the purpose of verification, and (3) such nonhandler's plant had actually used not less than an equivalent amount of skim milk and butterfat in the use indicated in such statement: *Provided*, That, if verification of such nonhandler's records discloses that an equivalent amount of skim milk and butterfat had not been used in such indicated utilization, the remaining pounds shall be classified in series beginning with the next higher priced classification in which such nonhandler had utilization.

§ 912.45 *Computation of skim milk and butterfat in each class.* For each delivery period, the market administrator shall correct for mathematical and other obvious errors the delivery period report submitted by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, and Class III milk for such handler.

§ 912.46 *Allocation of skim milk and butterfat to be classified.* After computing the classification of all skim milk and butterfat received by a handler pursuant to § 912.45, the market administrator shall determine the classification of milk received from producers as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk determined pursuant to § 912.41 (c) (2).

(2) Subtract from the remaining pounds of skim milk in each class in series beginning with the lowest priced class in which the handler has use, the pounds of skim milk contained in other source milk: *Provided*, That, in the case of a handler who receives from a plant regulated under another order issued pursuant to the act, milk or milk products in packaged form which are defined as Class I milk under this order and which have been classified and priced under the other order, and who transfers Class I milk in packaged form to the same plant from which the above mentioned packaged milk is received, there shall be subtracted from the pounds of skim milk in Class I an amount equal to the pounds of skim milk contained in the packaged Class I items, either received by the handler from the plant subject to regulation under the other order, or transferred by the handler to such plant, whichever is the lesser amount;

(3) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk contained in receipts from other handlers in accordance with its classification as determined pursuant to § 912.44 (a);

(4) Add to the remaining pounds of skim milk in Class III the pounds of skim

milk subtracted pursuant to subparagraph (1) of this paragraph,

(5) If the remaining pounds of skim milk in all classes exceed the pounds of skim milk received from producers an amount equal to the difference shall be subtracted from the pounds of skim milk in each class in series beginning with the lowest priced class in which the handler has use. Any amount so subtracted shall be called "overrun"; and

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section.

MINIMUM PRICES

§ 912.50 *Class prices.* Subject to the provisions of §§ 912.51 and 912.52, the minimum prices per hundredweight to be paid by each handler for milk received at his plant from producers during the delivery period shall be as follows:

(a) *Class I milk.* The price established per hundredweight of Class I milk under Order No. 44, as amended, regulating the handling of milk in the Quad Cities marketing area, minus 10 cents;

(b) *Class II milk.* The higher of the prices resulting from the computations made pursuant to subparagraphs (1) and (2) of this paragraph:

(1) The average of the basic or field prices reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the period, beginning with the 16th day of the preceding month and ending with the 15th day of the then current month at the following plants for which prices have been reported to the market administrator or to the Department of Agriculture:

Present Operator of Plant and Location

Amboy Milk Products Company, Amboy, Ill.

Borden Company, Dixon, Ill.

Borden Company, Sterling, Ill.

Carnation Company, Morrison, Ill.

Carnation Company, Oregon, Ill.

Carnation Company, Waverly, Iowa.

United Milk Products Company, Argo, Ill.

(2) The price resulting from the following computations:

(i) Multiply the butter price by 6.

(ii) Add an amount equal to 2.4 times the average of the weekly prices of the cheese known as "Cheddar" or the Wisconsin Cheese Exchange at Plymouth, Wisconsin, as reported by the Department of Agriculture during the delivery period. If there are no sales on the exchange during any week, the last previously quoted price shall be used as the price for that week in making these computations,

(iii) Divide the resulting sum by 7.

(iv) Add 30 percent thereof, and

(v) Multiply the resulting sum by 3.5; and

(c) *Class III milk.* The price for Class II milk minus 10 cents.

§ 912.51 *Butterfat differentials to handlers.* If the average butterfat content of the milk of any handler allocated to any class pursuant to § 912.46 is more or less than 3.5 percent there shall be added to the respective class prices computed pursuant to § 912.50 for each one-

tenth of 1 percent that the average butterfat content of such milk is above 3.5 percent or subtracted for each one-tenth of 1 percent that such average butterfat content is below 3.5 percent, an amount equal to the applicable butterfat differential computed as follows:

(a) *Class I milk.* Multiply by 1.40 the butter price for the preceding delivery period and divide the result by 10;

(b) *Class II milk.* Multiply the butter price by 1.20 and divide the result by 10; and

(c) *Class III milk.* Multiply the butter price by 1.20 and divide the result by 10.

§ 912.52 Emergency price provisions. Whenever the provisions hereof require the market administrator to use a specific price (or prices) for milk or any milk product for the purpose of determining class prices or for any other purpose and the price specified is not reported or published as indicated, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the prices specified.

APPLICATION OF PROVISIONS

§ 912.55 Application to producer-handlers. Sections 912.40 to 912.46, 912.52, 912.60 to 912.62, 912.70 to 912.76 and 912.80 to 912.82, shall not apply to the handling of milk by a producer-handler.

§ 912.56 Handlers subject to other Federal orders. In the case of any handler who disposes of a greater portion of his milk as Class I milk in another marketing area regulated by another milk marketing order issued pursuant to the act, the provisions of this order shall not apply except that such handler shall, with respect to his total receipts of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

DETERMINATION OF UNIFORM PRICE

§ 912.60 Computation of value of milk. The value of the milk received during each delivery period by each handler from producers shall be a sum of money computed by the market administrator by multiplying the pounds of such milk in each class by the applicable class prices and adding together the resulting amounts: *Provided*, That, if the handler had overrun of either skim milk or butterfat there shall be added to the above values an amount computed by multiplying the pounds of overrun by the applicable class prices.

§ 912.61 Computation of uniform price. For each delivery period the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 912.60 for all handlers who made the reports prescribed by § 912.30 and who made the payments pursuant to §§ 912.70 and 912.73 for the preceding delivery period;

(b) Add not less than one-half the cash balance on hand in the producer-settlement fund less the total amount of contingent obligations to handlers pursuant to § 912.75;

(c) Subtract, if the average butterfat content of the milk included in these computations is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 912.71, and multiplying the resulting figure by the total hundredweight of such milk;

(d) Divide the resulting sum by the total hundredweight of milk included in these computations; and

(e) Subtract not less than 4 cents nor more than 5 cents from the amount per hundredweight computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for milk received from producers.

§ 912.62 Notification of handlers. On or before the 10th day after the end of each delivery period, the market administrator shall mail to each handler at his last known address, a statement showing:

(a) The classification and value of the milk received from producers by such handler;

(b) The applicable class prices and the uniform price; and

(c) The amount due such handler or the amount to be paid by such handler, as the case may be, pursuant to §§ 912.73 and 912.74.

PAYMENTS FOR MILK

§ 912.70 Time and method of payment. Each handler shall make payments as follows:

(a) On or before the 15th day after the end of the delivery period during which the milk was received, to each producer for milk, except that for which payment is made to a cooperative association pursuant to paragraph (b) of this section, at not less than the uniform price computed pursuant to § 912.61, subject to the butterfat differential computed pursuant to § 912.71.

(b) On or before the 12th day after the end of the delivery period during which the milk was received, to a cooperative association for milk which it caused to be delivered to such handler from producers' farms, of an amount equal to not less than the sum of the individual payments otherwise payable to such producers.

§ 912.71 Producer butterfat differential. In making payments pursuant to § 912.70 there shall be added to or subtracted from the uniform price for each one-tenth of one percent that the average butterfat content of the milk received from producers is above or below 3.5 percent, an amount computed by multiplying the butter price by 1.20 and dividing the resulting sum by 10.

§ 912.72 Producer-settlement fund. The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made

by handlers pursuant to §§ 912.73 and 912.75 and out of which he shall make all payments to handlers pursuant to §§ 912.74 and 912.75.

§ 912.73 Payments to the producer-settlement fund. On or before the 12th day after the end of each delivery period, each handler shall pay to the market administrator the amount by which the utilization value of the milk received by such handler from producers during such delivery period is greater than the amount required to be paid by such handler pursuant to § 912.70.

§ 912.74 Payments out of the producer-settlement fund. On or before the 12th day after the end of each delivery period, the market administrator shall pay to each handler the amount by which the utilization value of the milk received by such handler from producers during the delivery period is less than the amount required to be paid producers by such handler pursuant to § 912.70: *Provided*, That, if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. No handler who has not received the balance of such payments from the market administrator shall be considered in violation of § 912.70 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

§ 912.75 Adjustment of errors in payments. Whenever audit by the market administrator of any handler's reports, books, records or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due, and payment thereof shall be made on or before the next date for making payments set forth in the provision under which such error occurred.

§ 912.76 Interest on overdue accounts. Any unpaid obligation of a handler or of the market administrator pursuant to §§ 912.72, 912.73, 912.74, 912.75, 912.80 and 912.81 shall be increased one-half of one percent on the first day of the calendar month next following the due date of such obligation and on the first day of each calendar month thereafter until such obligation is paid.

MISCELLANEOUS PROVISIONS

§ 912.80 Expense of administration. As his pro rata share of the expense of administration hereof, each handler shall pay to the market administrator on or before the 12th day after the end of the delivery period, 4 cents per hundredweight, or such lesser amount as the Secretary from time to time may prescribe with respect to all milk received within the delivery period from producers (including the handler's own production) and from sources other than producers or other handlers.

§ 912.81 Marketing services.—(a) *Deductions.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers (other than himself) pursuant to § 912.70 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary from time to time may prescribe, and shall pay such deductions to the market administrator on or before the 12th day after the end of such delivery period. Such moneys shall be used by the market administrator to check weights, samples and tests of milk received from producers and to provide producers with market information; and

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 12th day after the end of such delivery period pay such deduction to the cooperative association rendering such services.

§ 912.82 Termination of obligations. The provisions of this section shall apply to any obligation under this order for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such 2-year period, the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to the following information:

- (1) The amount of the obligation.
- (2) The month(s) during which the milk with respect to which the obligation exists, was received or handled, and
- (3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler falls or refuses, with respect to any obligation under this order, to make available to the market administrator or his representative all books and records required by this order to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund is claimed, unless such handler, within the applicable period of time, files pursuant to section 8c (15) (A) of the act, a petition claiming such money.

§ 912.83 Agents. The Secretary may by designation in writing name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

EFFECTIVE TIME, SUSPENSION AND TERMINATION

§ 912.90 Effective time. The provisions of this part or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 912.91 Suspension or termination. The Secretary shall, whenever he finds this part or any provision hereof obstructs or does not tend to effectuate the declared policy of the act, terminate or suspend the operation of this part or such provision.

§ 912.92 Continuing obligations. If upon the suspension or termination of any or all of the provisions of this part, there are any obligations hereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 912.93 Liquidation. Upon the suspension or termination of the provisions of this part, except this section, the market administrator or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all accounts, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If upon liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay the necessary expenses of liquidation and distribution, such excess shall be dis-

tributed to contributing handlers and producers in an equitable manner.

Filed at Washington, D. C. this 17th day of January 1956.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F. R. Doc. 56-499; Filed, Jan. 19, 1956; 8:51 a. m.]

[7 CFR Part 961]

[Docket No. AO-160-A-17]

MILK IN PHILADELPHIA, PA., MARKETING AREA

NOTICE OF HEARING ON PROPOSED AMENDMENTS TO THE TENTATIVELY APPROVED MARKETING AGREEMENT AND TO THE ORDER NOW IN EFFECT REGULATING HANDLING

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the opening of a public hearing to be held in the Carlton Room of the Sylvania Hotel, Broad and Locust Streets, Philadelphia, Pennsylvania, beginning at 10:00 a. m., e. s. t., February 1, 1956, for the purpose of receiving evidence with respect to proposed amendments herein-after set forth, or appropriate modifications thereof, to the tentative marketing agreement heretofore approved by the Secretary of Agriculture, and to the order now in effect regulating the handling of milk in the Philadelphia, Pennsylvania, marketing area. Proposal No. 1 would establish a lower pricing for milk disposed of for specified Class II uses during the months of February through July. Accordingly, evidence will be received with respect to emergency and other economic conditions which relate to the proposal and to any other proposals which are related to the determination of a proper level of pricing of milk in excess of fluid needs. These proposed amendments have not received the approval of the Secretary of Agriculture.

By Milk Distributors Association of the Philadelphia Area, Inc.:

1. Amend § 961.40 (b) by adding a new subparagraph (3) to read as follows:

(3) For the months of February, March, April, May, June, and July, in the case of milk, skim milk, or butterfat, dumped, disposed of for animal feed, or manufactured by the handler or others into butter, Cheddar cheese, Baker's or any other cheese except cream or cottage cheese, evaporated milk, milk chocolate, nonfat dry milk solids, soup, candy or bakery products, less any milk butterfat or equivalent of concentrated milk product received from a nonproducer plant, the value shall be adjusted downward at the rate, applied to the total utilization during the month in such products, of 25 cents per hundredweight of such total quantity or 5 cents per pound of butterfat in such total quantity, whichever results in the greater aggregate adjustment.

By Inter-State Milk Producers' Cooperative, Inc.:

2. Amend the proviso contained in § 961.6 (c) by deleting the words "during any other month" and substituting therefor the words "during any of the months of July, August and September."

3. Amend § 961.40 (a) (7) and (8) by deleting the words "during three consecutive months" and substituting therefor the words "during five consecutive months."

4. Amend the producer milk plant definition as set forth in § 961.6 to provide that any plant meeting the requirements set forth in paragraphs (b) or (c) but which disposed of the largest portion of its total Class I milk in another milk marketing area under an order of the Secretary shall not be considered as a producer milk plant under this order.

5. Consider revisions of the classification and allocation provisions (§§ 961.30-961.35) to eliminate certain administrative problems; in particular, as to classification of skim milk powder used to fortify Class I products, certain mixes, egg nog and inventories, and as to allocations of bottled producer-handler milk and plant shrinkage.

6. Reconsider the present handler and producer butterfat differentials.

By the Milk Distributors Association of the Philadelphia Area, Inc.:

7. Review the administrative provisions of the order in light of administrative procedure problems confronting the market.

8. Reconsider the butterfat differentials to be used in calculating values of milk of differing butterfat content, as received from individual producers, and as disposed of in various uses by handlers.

9. Review the price applicable to producer milk sold outside the marketing area.

By the Dairy Division:

10. Provide in the order for more categorical definition and treatment of:

- (a) Producer-handler;
- (b) Other source milk;
- (c) Out-of-area sales;
- (d) Classification and reclassification;
- (e) Allocation; and
- (f) Duties and responsibilities of the market administrator.

11. Consider standardization of the language of the definition and administrative provisions of the order.

12. Make such other changes as may be required to make the entire marketing agreement and order conform with any amendments therein that may result from this hearing.

Copies of this notice of hearing and of the order now in effect may be procured from the market administrator: Fox Building, 12th Floor, 1612 Market Street, Philadelphia, Pennsylvania; or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Issued at Washington, D. C., this 17th day of January 1956.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F. R. Doc. 56-500; Filed, Jan. 19, 1956;
8:51 a. m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 19]

[Docket No. FDC-61]

PARTIALLY CREAMED COTTAGE CHEESE

NOTICE OF HEARING

In the matter of adopting a definition and standard of identity for a food to be known as partially creamed cottage cheese:

Notice is hereby given that within 30 days following publication of the order (FEDERAL REGISTER of October 21, 1955; 20 F. R. 7944) stating that the proposal of the Borden Company Pacific Cheese Division to adopt a definition and standard of identity for partially creamed cottage cheese had been denied, exceptions to such order were filed by the Borden Company Pacific Cheese Division, San Francisco, California; Milk Foods, Inc., U. S. A., Modesto, California, and Beatrice Foods Company, Chicago, Illinois, and a public hearing requested.

Now, therefore, pursuant to the authority of the Federal Food, Drug, and Cosmetic Act (sec. 401, 52 Stat. 1046, 68 Stat. 54; 21 U. S. C. 341), and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (20 F. R. 1996), notice is given that a public hearing will be held on the proposal of the Borden Company Pacific Cheese Division to adopt a definition and standard of identity for partially creamed cottage cheese.

The proposal submitted by the Borden Company Pacific Cheese Division is as follows:

To add to Part 19 or Title 21, Code of Federal Regulations, a new section entitled *Partially creamed cottage cheese; identity*, reading as follows:

§ 19.531 *Partially creamed cottage cheese; identity.* (a) Partially creamed cottage cheese is the soft uncured cheese prepared by mixing cottage cheese with one or more of the following pasteurized products or a pasteurized mixture of two or more of them: Cream, milk, skim milk, concentrated milk, dried milk, concentrated skim milk, nonfat dry milk solids, or other constituents derived from milk, water. Such cream or product or mixture is used in such quantity that the milk fat added thereby is not less than 0.5 percent nor more than 2 percent by weight of the finished partially creamed cottage cheese. The finished partially cream cottage cheese contains not more than 80 percent of moisture as determined by the method prescribed under "Moisture—Official" on page 301 (Ed. note, 6th edition, 1945, p. 336) of "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," Fifth Edition 1940.

(b) For the purposes of this section, "milk" whether modified or unmodified means cow's milk.

The above proposal is subject to adoption, rejection, or modification by the Secretary of Health, Education, and Wel-

fare in whole or in part as the evidence adduced at the hearing may require.

The hearing will begin at 10 a. m. on Tuesday, February 28, 1956, in Room G-747A, Health, Education, and Welfare Building North, Fourth Street and Independence Avenue SW., Washington, D. C.

All interested persons are invited to attend this hearing and present evidence. At the hearing evidence will be restricted to testimony and exhibits relevant and material to the proposal. The hearing will be conducted in accordance with the rules of practice provided therefor.

Mr. Leonard D. Hardy is hereby designated as presiding officer to conduct the hearing, with full authority to administer oaths and affirmations and do all other things appropriate to the conduct of the hearing. The presiding officer is required to certify the entire record to the Commissioner of Food and Drugs for initial decision.

Dated: January 13, 1956.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 56-473; Filed, Jan. 19, 1956;
8:46 a. m.]

[21 CFR Part 130]

DRUGS EXEMPTED FROM PRESCRIPTION-Dispensing Requirements of the Federal Food, Drug, and Cosmetic Act

NOTICE OF PROPOSED RULE MAKING

Notice is given that the Commissioner of Food and Drugs, in accordance with the Federal Food, Drug, and Cosmetic Act (secs. 503 (b) (3), 505 (c), 701 (a); 65 Stat. 649, 52 Stat. 1052, 1055; 21 U. S. C. 353 (b) (3), 371 (a)) and the authority delegated to him by the Secretary of Health, Education, and Welfare (21 CFR 1.108 (c)) hereby offers an opportunity to all interested persons to submit their views in writing to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D. C., within 30 days from the date of publication of this notice in the FEDERAL REGISTER on the proposed amendment set forth below:

It is proposed to amend paragraph (a) of § 130.1 *Exemption for certain drugs limited by new-drug applications to prescription sale* by adding the following new subparagraphs (10) and (11):

(10) Sodium fluoride preparations meeting all the following conditions:

(i) The sodium fluoride is prepared, with other components, in a dosage form suitable for household use as a dentifrice powder, and containing no drug limited to prescription sale under the provisions of section 503 (b) (1) of the act.

(ii) The sodium fluoride and all other components of the preparation meet their professed standards of identity, strength, quality, and purity.

(iii) If the preparation is a new drug, an application pursuant to section 505 (b) of the act is effective for it.

(iv) The preparation contains not more than 5 milligrams of sodium fluoride per gram and is packaged to contain

not more than 300 milligrams of sodium fluoride per retail package.

(v) The preparation is labeled with adequate directions for use only as a dentifrice by adults and children 6 years of age and over, and includes instructions to rinse the mouth thoroughly after brushing the teeth.

(vi) The labeling bears, in juxtaposition with the directions for use, clear warning statements against:

(a) Use by children under 6 years of age.

(b) Use if the water supply contains fluoride, except as directed by a dentist.

(11) Hydrocortisone or hydrocortisone acetate preparations meeting all the following conditions:

(i) The hydrocortisone or hydrocortisone acetate is prepared, with or without other drugs, in a dosage form suitable for use in self-medication by external application to the skin, and containing no drug limited to prescription sale under the provisions of section 503 (b) (1) of the act.

(ii) The hydrocortisone or hydrocortisone acetate and all other components of the preparation meet their professed standards of identity, strength, quality, and purity.

(iii) If the preparation is a new drug, an application pursuant to section 505 (b) of the act is effective for it.

(iv) The preparation contains not more than 25 milligrams of hydrocortisone or hydrocortisone acetate per gram.

(v) The preparation is labeled with adequate directions for use by external application to the skin in the relief of itching and inflammation associated with minor skin irritations.

(vi) The directions for use recommend or suggest not more than two applications of the preparation per day and not more than 5 days' duration of use, except as directed by a physician.

(vii) The labeling bears, in juxtaposition with the directions for use, clear warning statements against:

(a) Use for more than 5 days except as directed by a physician.

(b) Use on infections or where pus is present, because the drug may cause infection to spread.

(c) Continued use if redness, irritation, swelling, or pain persists or increases.

The proposed amendment removes the drugs mentioned therein from the prescription-dispensing requirements of the Federal Food, Drug, and Cosmetic Act (sec. 503 (b) (1) (C), 52 Stat. 1052, 65 Stat. 648; 21 U. S. C. 353 (b) (1) (C)). These drugs were previously limited by their new-drug applications to use under professional supervision because the scientific data establishing the toxic potential of the drugs and their intended uses showed only that they were safe if used under professional supervision.

Pursuant to the regulations in § 1.108 (c) of this chapter (21 CFR 1.108 (c); 29 F. R. 9535), petitions have been submitted to remove the prescription restrictions from these drugs. Evidence now available through investigations and marketing experience shows that the drugs can be safely used by the laity in self-medication if they are used in ac-

cordance with the proposed labeling. The restriction to prescription sale is no longer necessary for the protection of the public health.

This action in removing the prior restriction limiting these drugs to prescription sale is taken under the authority of the Federal Food, Drug, and Cosmetic Act (secs. 503 (b) (3), 505 (c), 52 Stat. 1052, 65 Stat. 649; 21 U. S. C. 353 (b) (3), 355 (c)) which provides for and requires the removal of such restrictions if they are not necessary for the protection of the public health.

Dated: January 13, 1956.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[P. R. Doc. 56-472; Filed, Jan. 19, 1956;
8:46 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 4]

[Docket No. 11611; FCC 56-44]

EXPERIMENTAL, AUXILIARY, AND SPECIAL
BROADCAST SERVICES

NOTICE OF PROPOSED RULE MAKING

In the matter of amendment of the Commission's rules and regulations to permit the operation of TV translator stations in conjunction with the primary transmitter.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The Commission has from time to time taken steps calculated to bring to fulfillment the objectives set forth in the Sixth Report and Order. The Table of TV Assignments set out in that Report attempted to provide at least one television service to all parts of the United States. This objective has to a very marked degree been attained. There still remain, however, many isolated communities, not served by existing stations, which have not constructed their own stations, even though channels may be available for such assignment.

3. One method of reaching additional unserved areas is by means of amplifying transmitters, sometimes called boosters. On March 30, 1955, the Commission instituted a rule making proceeding to determine whether "booster" operation was a feasible means for filling in "shadow" (unserved) areas within the normal coverage area of UHF television stations. Comments in response to this proceeding have been received, but no final decision has as yet been issued.

4. The purpose of the instant rule making is to explore another method of providing new service, particularly with respect to areas beyond the normal service range of existing TV stations. The rules proposed below envisage the use of translators as an economical means of reaching such unserved areas. It should be clearly understood that the rules set out below at this stage represent only a tentative proposal of the Commission. The Commission will carefully study the comments submitted in the proceeding before determining the exact form and substance of such final rules as may be adopted.

5. For the purpose of this rule making, a translator is defined as a piece of equipment which receives the signals of a television broadcast station and retransmits them on one of the numbered UHF channels between 70 and 83. Confining translators to this seldom used portion of the TV band would reduce the required number of protective spacings with existing stations. It would also pave the way for a general relaxation in operating requirements. In the proposed rules set forth below the requirements have been reduced to the bare minimum consistent with dependable service and protection of other services from interference.

6. In view of the foregoing the Commission is proposing to amend its rules as set forth below.

7. Authority for the adoption of the proposed amendment is contained in sections 4 (f), 301, 303 (a), (b), (c), (d), (e), (f), (g), (j), and (r) and 307 (b) of the Communications Act of 1934, as amended.

8. Any interested person who is of the opinion that the proposed amendment should not be adopted, or should not be adopted in the form set forth herein, may file with the Commission on or before March 15, 1956 written data, views or arguments setting forth his comments. Comments in support of these proposals may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments or briefs. No additional comments may be filed unless (1) specifically requested by the Commission or (2) good cause for the filing of such additional comments is established. The Commission will consider all such comments that are submitted before taking action in this matter, and if any comments appear to warrant the holding of a hearing or oral argument, notice of the time and place of such hearing or oral argument will be given.

9. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: January 11, 1956.

Released: January 17, 1956.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] WM. P. MASSING,
Acting Secretary.

Part 4 of the Commission's rules is amended as follows:

I. The title of the part is changed to read: Part 4—Experimental, Auxiliary, and Special Broadcast Services.

II. Section 4.1 is amended by adding a new paragraph (c) to read as follows:

(c) Special broadcast:

(1) Television broadcast translator (Subpart G).

III. Section 4.11 is amended by adding a new paragraph (c) to read as follows:

(c) If application is for a construction permit for a new television broadcast translator station or to make changes in an existing television broadcast transla-

tor station, FCC Form 346 shall be filed, in triplicate; for a station license, FCC Form 347 shall be filed; for renewal of station license, FCC Form 348 shall be filed.

IV. Section 4.18 is amended by adding a new class of station to the list in paragraph (a) as follows:

Television broadcast translator station: June 1.

V. A new Subpart G is added to read as follows:

SUBPART G—TV TRANSLATOR STATIONS

DEFINITIONS AND ALLOCATION OF FREQUENCIES

§ 4.701 *Definitions*—(a) *Television translator station*. A station in the broadcasting service which employs a combination of apparatus designed to intercept the signals of a television broadcast station, convert them to one of the channels listed in § 4.702, and retransmit them without significantly altering any characteristic of the incoming signal other than its frequency and amplitude, for the purpose of providing television reception to the general public in the area served by the TV translator station.

(b) *Primary station*. The television broadcasting station radiating the signals which are retransmitted by a television translator station.

§ 4.702 *Frequency assignment*. (a) One of the following channels may be assigned to a television translator station:

Channel No.	Frequency band	Video carrier frequency	Audio carrier frequency
	Mc.	Mc.	Mc.
70	806-812	807.25	811.75
71	812-818	813.25	817.75
72	818-824	819.25	823.75
73	824-830	825.25	829.75
74	830-836	831.25	835.75
75	836-842	837.25	841.75
76	842-848	843.25	847.75
77	848-854	849.25	853.75
78	854-860	855.25	859.75
79	860-866	861.25	865.75
80	866-872	867.25	871.75
81	872-878	873.25	877.75
82	878-884	879.25	883.75
83	884-890	885.25	889.75

(b) An applicant for a television translator station shall specify a channel on which its operation will be least likely to cause interference to other television translator stations. An applicant for construction permit shall list the locations of all other television translator stations operating within 50 miles of the location of the proposed television translator station and shall show the channels used by such stations.

(c) A channel listed in paragraph (a) of this section will not be assigned to a television translator station located:

(1) Within 20 miles of a television broadcast channel assignment 2, 3, 4, 5 or 8 channels below or above the requested channel;

(2) Within 55 miles of a television broadcast channel assignment on an adjacent channel;

(3) Within 60 miles of a television broadcast channel assignment 7 or 14 channels below or above the requested channel;

(4) Within 75 miles of a television broadcast channel assignment on a channel 15 channels below the requested channel;

(5) Within 155 miles of a co-channel television broadcast channel assignment.

(d) No minimum geographical separation is specified between television translator stations operating on the same channel. However, the separation shall in all cases be adequate to prevent mutual interference. An adequate showing shall be made in the application of the basis on which the frequency was selected. An applicant may request the assignment of visual and aural carrier center frequencies offset by plus or minus 10 kc from the frequencies specified in paragraph (a) of this section to provide additional protection to other television translator stations operating on the same channel.

(e) Adjacent channel assignments will not be made to television translator stations serving all or part of the same area.

§ 4.703 *Interference*. (a) An applicant for a television translator station shall endeavor to select a channel and transmitter site so as to minimize the possibility of interference to other TV broadcast or TV translator stations operating in the same general area.

(b) In general, the licensee of a new TV translator station shall protect existing TV translators from interference resulting from its operation. It shall be the responsibility of the licensee of a TV translator station to correct any interference which results from the radiation of radio frequency energy by its equipment on frequencies other than those in the channel assigned for the operation of the translator station. Upon notice by the Commission to the station licensee that such interference is being caused, the operation of the TV translator station shall be terminated immediately and shall not be resumed until the interference has been eliminated, or it can be demonstrated that the interference is not due to spurious emissions by the TV translator station: *Provided, however*, That short test transmissions may be made during this period to check the efficacy of remedial measures.

(c) In each instance where such termination of operation is required the licensee shall submit a full report to the Commission after operation is resumed, containing details of the nature of the interference, the source of the interfering signal, and the remedial steps taken to eliminate the interference.

§ 4.731 *Purpose and permissible service*. (a) A television translator station may be used only for the purpose of retransmitting the signals of a television broadcast station in order to provide a new or additional television broadcast service to a community and its environs.

(b) A television translator station may retransmit the signals of different television broadcast stations during different periods of its operation in order to provide television reception best suited to the needs of a particular community. A change in the identity of the station re-

broadcast shall, to the extent practicable, be accomplished at such time that interruption or incomplete retransmission of individual programs will not result.

(c) Retransmission of the signals of any station shall be made only in accordance with the provisions of § 4.784.

§ 4.732 *Eligibility and licensing requirements*. (a) A license for a television translator station may be issued to any qualified individual, organized group of individuals, broadcast station licensee, or local civil governmental body upon an appropriate showing that plans for the financing of the installation and operation of the station are sufficiently sound to insure continuation of the operation for the period of the license.

(b) More than one TV translator station may be licensed to a single party whether or not such stations serve substantially the same area.

(c) A separate application is required for each TV translator station, and each application shall be complete in all respects.

§ 4.734 *Remote control operation*. (a) A television translator station may be operated by remote control, provided that such operation is conducted in accordance with the conditions set forth in subparagraphs (1) through (5) of this paragraph.

(1) The control point shall be located on premises under the control and supervision of the licensee or its agent. An operator holding any grade of commercial radio operators license shall be in charge of this control point during all periods of operation of the TV translator station.

(2) Facilities shall be provided at the control point to enable the operator to observe the transmission of the TV translator at any time, and which will permit the operator to turn the transmitter on and off at will.

(3) A carrier operated device shall be installed at the control point which shall give a continuous visual indication whenever the transmitter is radiating; or, in lieu thereof, a device shall be provided which will give a continuous visual indication when any transmitter control circuits have been placed in a condition to produce radiation.

(4) The control circuits shall be so designed and installed that failure of any part of the circuit which results in loss of control from the remote control point will deenergize the transmitter.

(5) The transmitter and its associated controls shall be so installed and protected that they are not accessible to other than duly authorized persons.

(b) In the event that the control point is not continuously manned by a qualified operator, the transmitter shall be equipped with suitable automatic devices which will deenergize the transmitter when no signal is available for reradiation.

(c) In addition to the automatic or manual controls, a television translator station may be turned on and off by a time switch.

(d) Whether or not the control point is continuously manned, observation shall be made by the operator in charge of the TV translator station, of the sig-

nals transmitted by the TV translator station at least once each hour, during the period between 10 minutes before the hour and 10 minutes after the hour, and any condition of improper operation observed shall be promptly corrected. If the improper operation cannot be corrected at the control point, the transmitter shall be deenergized until suitable repairs can be made.

(e) If remote control operation is proposed at a new TV translator station, the application for construction permit shall be accompanied by a showing as to the manner of compliance with the above conditions. Any proposal to change an existing TV translator station from manual operation to remote control operation shall be submitted in the form of an application for modification of existing authorization accompanied by the above showing of compliance.

§ 4.735 Power limitations. A television translator station will not be authorized for power output from the transmitter in excess of 10 watts.

§ 4.736 Emission and bandwidth. (a) The license of a television translator station authorizes the transmission of the video signal by amplitude modulation (A5) and the accompanying sound signal by frequency modulation (F3).

(b) Standard width television channels will be assigned and the emissions of a television translator station shall be confined to the authorized channel in accordance with the Television Technical Standards contained in Subpart E of Part 3 of this chapter.

(c) Harmonics and other spurious emissions shall be kept as low as the state of the art permits and in no event shall cause interference to the reception of other radio or television stations.

§ 4.737 Antenna location. (a) An applicant for a new television translator station or for change in the facilities of an existing station shall endeavor to select a site which will provide line-of-sight coverage of the entire area intended to be served and at which there is available a suitable signal from the TV broadcast station or stations to be retransmitted. The transmitting antenna should be placed above growing vegetation and trees lying in the direction of the area intended to be served to minimize the possibility of signal absorption by foliage.

(b) A site within 5 miles of the area intended to be served is to be preferred if the above condition can be met.

(c) Consideration should be given to accessibility of the site at all seasons of the year and to the availability of facilities for the maintenance and operation of the TV translator station.

(d) The transmitting antenna should be located as near as practical to the transmitter to avoid the use of long lengths of transmission line and the associated losses.

(e) Care shall be taken that signals originating on frequencies other than that of the primary television station are not picked up and retransmitted by the television translator stations.

§ 4.750 Equipment and installation. (a) An application for construction per-

mit for a new television translator station, or an application for modification of the facilities of an existing television translator station, shall specify equipment which has been given type approval by the Commission.

(b) Type approval will be granted only after tests have been made at the Commission's Laboratory, Laurel, Maryland. Manufacturers may submit a production model for type approval and such approval, if granted, will be considered to apply to all identical models manufactured under that type number. No change, either mechanical or electrical, may be made in any type approved apparatus without prior approval of the Commission upon appropriate request therefor. Type approval may be withdrawn at any time if the apparatus fails to meet the requirements under which type approval was granted.

(c) Type approval will be granted only if the apparatus meets the following requirements:

(1) The frequency converter and associated amplifiers shall be so designed that the characteristics of the incoming signal will not be altered significantly upon retransmission except as to frequency and amplitude.

(2) The overall characteristics of the apparatus shall be such that signals on frequencies other than those of the primary television station will not be retransmitted with sufficient intensity as to cause interference to the reception of other television or radio stations.

(3) The local oscillator employed in the translator shall be isolated and shielded to the extent necessary to prevent appreciable radiation on its fundamental or on harmonically related frequencies.

(4) The local oscillator employed in the frequency converter unit shall be sufficiently stable that, subject to variations in ambient temperature between -15° and $+55^{\circ}$ Centigrade and power main voltage variations of $\pm 15\%$, the visual carrier and aural center frequencies at the output of the translator will be maintained within ± 10 kc of the frequencies assigned to the TV translator station when the primary TV station is operating exactly on its assigned frequencies: *Provided, however,* That in cases where off-set carrier operation is proposed the variations in the output frequencies under the above-mentioned conditions shall not exceed ± 1 kc.

(5) The tube or tubes employed in the final radio frequency amplifier shall not be capable of supplying output power appreciably in excess of 10 watts.

(6) The apparatus shall be equipped with suitable automatic devices which will place it in an inoperative condition in the absence of a visual and aural signal from the primary TV station. Such automatic devices may be provided with reasonable time constants to prevent momentary failures of the incoming signals from interrupting the operation.

(7) (i) Any manufacturer desiring to submit a translator for type approval shall supply the Commission with full specification details (two sworn copies) as well as the test data specified in this section. If this information appears to meet the requirements of the rules, ship-

ping instructions will be issued to the manufacturer. The shipping charges to and from the Laboratory at Laurel, Maryland, shall be paid for by the manufacturer. Approval of a translator will only be given on the basis of the data obtained from the sample translator submitted to the Commission for test.

(ii) In approving a translator upon the basis of the tests conducted by the Laboratory, the Commission merely recognizes that the type of translator has the inherent capability of functioning in compliance with the rules, if properly constructed, maintained, and operated.

(iii) Additional rules with respect to withdrawal of type approval, modification of type approval equipment and limitations on the findings upon which type approval is based are set forth in Part 2, Subpart F, of this subchapter.

(d) The installation of a television translator station shall be made only by, or under the direct supervision of, a qualified electronics engineer, and any repairs or adjustments made during or subsequent to the installation which could result in improper operation shall be made by or under the direct supervision of an operator holding a valid first or second class radiotelephone operator's license issued by the Commission.

(e) The choice of transmitting and receiving antennas is left to the discretion of the applicant. In general, the transmitting antenna should be designed to provide maximum signal over the area intended to be served and to minimize radiation over other areas, particularly those in which interference could be caused to the reception of other stations. The Commission reserves the right to require the use of suitable directive transmitting antennas in order to permit the assignment of the same channel to two or more TV translator stations located in the same general area. An application for construction permit for a new television translator station, or for changes in the facilities of an existing TV translator station, shall supply complete details of the proposed receiving and retransmitting antenna systems, including an accurate plot of the directive field pattern of the transmitting antenna.

§ 4.751 Equipment changes. (a) No change, either mechanical or electrical, may be made in type approved apparatus except upon instructions of the manufacturer of the equipment, based upon Commission approval for the change granted to the manufacturer in accordance with § 4.750 (b).

(b) Formal application (FCC Form 346) is required for any of the following changes:

(1) Replacement of the transmitter as a whole, except by one of an identical type.

(2) A change in the transmitting antenna system, including the direction of radiation, directive antenna pattern, or transmission line.

(3) An increase in the overall height of the antenna above ground of more than 20 feet or which will result in an overall height above ground of more than 170 feet.

(4) A change of the control point of a remotely controlled TV translator sta-

tion or any change in the control circuits.

(5) Any change in the location of the transmitter except a move within the same building or upon the same tower or pole, and any horizontal change in the location of the transmitting antenna in excess of 500 feet.

(6) A change of frequency assignment.

(7) A change of authorized operating power.

(8) A change of the primary TV station or stations being retransmitted.

(c) Other equipment changes not specifically referred to above may be made at the discretion of the licensee, provided that the Engineer in Charge of the radio district in which the TV translator station is located and the Commission's Washington, D. C., office, are notified in writing upon completion of such changes, and provided, further, that the changes are appropriately reflected in the next application for renewal of license of the TV translator station.

§ 4.761 Frequency tolerance. (a) The licensee of a television translator station operating on frequencies listed in § 4.702 (a) shall maintain the visual carrier frequency and aural center frequency at the output of the translator within 10 kilocycles of its assigned frequencies when the primary station is operating exactly on its assigned frequencies, and shall not exceed this tolerance at times when the primary TV station is not exactly on its assigned frequencies, by more than the amount of the departure by the primary station.

(b) The licensee of a television translator station operating with off-set carriers as provided in § 4.702 (d) shall maintain the visual carrier frequency and aural carrier center frequency at the output of the translator within 1 kilocycle of its assigned frequency when the primary station is operating exactly on its assigned frequencies and shall not exceed this tolerance at times when the primary station is not exactly on its assigned frequencies by more than the amount of the departure by the primary station.

§ 4.762 Frequency monitors and measurements. (a) The licensee of a TV translator station is not required to provide means for measuring the operating frequency of the transmitter. However, only equipment having the required stability will be approved for use at a TV translator station.

(b) In the event that a TV translator station is found to be operating beyond the tolerance prescribed in § 4.761, the licensee will be notified and shall promptly discontinue operation of the TV translator and shall not resume operation until the translator has been restored to its assigned frequency. Adjustment of the frequency determining circuits of a TV translator station shall be made only by a qualified person in accordance with § 4.750 (d).

(c) The licensee of a TV translator station may, in its discretion, provide means for comparing the frequency of the transmitter with an external frequency source of known accuracy as a

preventive measure to avoid unnecessary interruptions to service.

§ 4.763 Time of operation. (a) A television translator station is not required to adhere to any regular schedule of operation. However, the licensee of a TV translator station is expected to provide a dependable service to the extent that such is within its control and to avoid unwarranted interruptions to the service provided.

(b) If causes beyond the control of the licensee require that a television translator station remain inoperative for a period in excess of 10 days, the Engineer in Charge of the radio district in which the station is located shall be notified promptly in writing, describing the cause of failure and the steps taken to place the station in operation again, and shall be notified by prepaid telegram when the operation is resumed.

(c) Failure of a television translator station to operate for a period of 30 days or more, except for causes beyond the control of the licensee, shall be deemed evidence of discontinuance of operation and the license of the station will be cancelled.

(d) A television translator station shall not be permitted to radiate during extended periods when signals of the primary station are not being retransmitted.

§ 4.764 Station inspection. The licensee of a television translator station shall make the station and the records required to be kept by these rules, available for inspection by representatives of the Commission.

§ 4.765 Posting of station and operators licenses. (a) The station license and any other instrument of authorization or individual order concerning the construction of the equipment or manner of operation shall be posted in a conspicuous place in the room in which the transmitter is located, so that all terms thereof are visible; Provided:

(1) If the transmitter is operated by remote control pursuant to § 4.734, the station license shall be posted in the above described manner at the control point.

(2) If the transmitter is installed so as to be exposed to the elements and posting of the license would result in its being so exposed, the license or a photo copy thereof may be kept in the possession of the operator in charge of the transmitter. If a photo copy is used, the original license shall be conveniently available for inspection by a representative of the Commission.

(b) The original of each station operators license shall be posted at the place where he is on duty: *Provided, however,* That if the original license of a station operator is posted at another radio transmitting station in accordance with the rules governing that class of station and is there available for inspection by a representative of the Commission, a verification card (Form 758-F) is acceptable in lieu of the posting of such license: *Provided, further, however,* That if the operator in charge holds a restricted radiotelephone operator permit of the card form as distinguished from

the diploma form), he shall not post that permit but shall keep it in his personal possession.

§ 4.766 Operator requirements. (a) The actual operation of the transmitting apparatus in a television translator station shall be carried on only by a person holding a valid commercial radio operators license or permit of any class issued by the Commission except a Temporary Limited Radiotelegraph Second-Class License or an Aircraft Radiotelephone Operator Authorization, who shall be responsible for its proper operation with respect to those functions under his control. This responsibility, however, shall in no way relieve the licensee of its responsibility for the proper operation of the equipment.

(b) Any repairs or adjustments to a television translator station which might result in improper operation of the equipment shall be made only by or under the direct supervision of a person holding a valid first or second class radiotelephone operators license issued by the Commission.

(c) The licensed operator on duty and in charge of a television translator station may, at the discretion of the licensee, be employed for other duties or for the operation of another station or stations in accordance with the class of license which he holds, and the rules and regulations governing such stations. However, such duties shall in no wise interfere with the operation of the television translator station.

§ 4.767 Marking and lighting of antenna structures. (a) The marking and lighting of antenna structures employed at a television translator station, where required, will be specified in the authorization issued by the Commission. Part 17 of the Commission's rules sets forth the conditions under which such marking and lighting will be required and the responsibility of the licensee with regard thereto.

§ 4.768 Additional orders. In case the rules contained in this part do not cover all phases of operation or experimentation with respect to external effects, the Commission may make supplemental or additional orders, in each case as may be deemed necessary.

§ 4.769 Copies of rules. (a) The licensee of a television translator station shall have current copies of Part 4 and Part 17 of the Commission's rules available for use by the operator in charge, and is expected to be familiar with those rules relating to the operation of TV translator stations. Copies of the Commission's rules may be obtained at nominal cost from the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

§ 4.781 Station records. (a) The licensee of a television translator station shall maintain an operating log showing the following:

- (1) Hours of operation.
- (2) Call letters, channel, and location of primary station or stations.
- (3) Time of hourly observation required by § 4.734 (d), and operating con-

dition, signed by the operator making the observation.

(4) A record of all repairs, adjustments, maintenance, tests, and equipment changes, showing the date of such events, the name and qualifications of the person performing the operation, and a brief description of the matter logged.

(b) Where an antenna structure is required to be illuminated, see § 17.38 of this subchapter.

(c) The operating log shall be made available upon request to any authorized representative of the Commission.

(d) Station records shall be retained for a period of two years.

§ 4.783 *Station identification.* (a) The call sign of a television translator station shall be transmitted in international Morse code by means of an automatic keying device at the beginning and

end of each period of operation and during operation, on the hour and half hour. This transmission may be accomplished either by turning the visual or aural carriers transmitted by the translator on and off in the proper sequence or by superimposing an audio frequency tone containing the telegraphic identification on the visual or aural carriers radiated by the translator.

(b) The Commission may, in its discretion, specify other methods of identification.

§ 4.784 *Rebroadcasts.* (a) The term "rebroadcast" means the reception by radio of the programs or other signals of a radio or television station and the simultaneous or subsequent retransmission of such programs or signals for direct reception by the general public.

(b) The licensee of a television translator station shall not rebroadcast the programs of any television broadcast station or other television translator station without obtaining prior consent of the station whose signals or programs are proposed to be retransmitted. The Commission shall be notified of the call letters of each station rebroadcast and the licensee of the television translator station shall certify that express authority has been received from the licensee of the station whose programs are retransmitted.

(c) A television translator station is not authorized to rebroadcast the transmissions of any class of station other than a television broadcast station or another television translator station.

[F. R. Doc. 56-490; Filed, Jan. 19, 1956; 8:49 a. m.]

NOTICES

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11593]

ARNOLD JOSEPH LIPMAN

ORDER ASSIGNING MATTER FOR HEARING

In the matter of Arnold Joseph Lipman, Los Angeles, California, Docket No. 11593; suspension of amateur radio operator licenses.

The Commission having under consideration the application of Arnold Joseph Lipman, 1441 South Orange Drive, Los Angeles, California, for a hearing in the above-entitled matter;

It appearing that the said Arnold Joseph Lipman, acting in accordance with the provisions of section 303 (m) (2) of the Communications Act of 1934, as amended, filed with the Commission within the time provided therefor, an application requesting a hearing on the Commission's Order of August 30, 1955, suspending his Novice and Technician Class Amateur Radio Operator Licenses; and

It further appearing that under the provisions of section 303 (m) (2) of the Communications Act of 1934, as amended, said licensee is entitled to a hearing in the matter, and that upon the filing of timely written application therefor, the Commission's Suspension Order is held in abeyance until the conclusion of the proceedings in the said hearing:

It is ordered, This 16th day of January 1956, under authority contained in section 303 (m) (2) of the Communications Act of 1934, as amended, and section 0.292 (f) of the Commission's rules, that the matter of the suspension of the Novice and Technician Class Amateur Radio Operator Licenses of Arnold Joseph Lipman, be designated for hearing before a Commission Examiner at 10:00 a. m., on March 20, 1956 at the offices of the Commission in Washington, D. C., upon the following issues:

1. To determine whether the licensee committed the violations of the Com-

mission's rules set forth in the Commission's order of suspension.

2. If the licensee committed such violations, to determine whether the facts or circumstances in connection therewith would warrant any change in the terms of the Commission's order of suspension.

It is further ordered, That a copy of this order be transmitted by Registered Mail—Return Receipt Requested to Arnold Joseph Lipman, 1441 South Orange Drive, Los Angeles, California.

Released: January 17, 1956.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 56-491; Filed, Jan. 19, 1956; 8:49 a. m.]

[Docket No. 11594]

HAROLD M. BORING

ORDER ASSIGNING MATTER FOR HEARING

In the matter of Harold M. Boring, Los Angeles, California, Docket No. 11594; suspension of amateur radio operator license.

The Commission having under consideration the application of Harold M. Boring, 3703 Lomitas Drive, Los Angeles, California, for a hearing in the above-entitled matter;

It appearing that the said Harold M. Boring, acting in accordance with the provisions of section 303 (m) (2) of the Communications Act of 1934, as amended, filed with the Commission within the time provided therefor, an application requesting a hearing on the Commission's Order of October 10, 1955, suspending his Advanced Class Amateur Radio Operator License for a period of one year; and

It further appearing that under the provisions of section 303 (m) (2) of the Communications Act of 1934, as amended, said licensee is entitled to a hearing in the matter, and that upon

the filing of a timely written application therefor, the Commission's Suspension Order is held in abeyance until the conclusion of proceedings in the said hearing:

It is ordered, This 16th day of January 1956, under authority contained in section 303 (m) (2) of the Communications Act of 1934, as amended, and section 0.292 (f) of the Commission's Rules, that the matter of the suspension of the Advanced Class Amateur Radio Operator License of Harold M. Boring, be designated for hearing before a Commission Examiner at 10:00 a. m., on March 22, 1956, at the offices of the Commission in Washington, D. C., upon the following issues:

1. To determine whether the licensee committed the violations of the Commission's rules set forth in the Commission's order of suspension.

2. If the licensee committed such violations, to determine whether the facts and circumstances in connection therewith would warrant any change in the terms of the Commission's order of suspension.

It is further ordered, That a copy of this order be transmitted by Registered Mail—Return Receipt Requested to Harold M. Boring, 3703 Lomitas Drive, Los Angeles, California.

Released: January 17, 1956.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 56-492; Filed, Jan. 19, 1956; 8:50 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OREGON

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

The United States Forest Service, Department of Agriculture has filed an ap-

plication, Serial No. Oregon 04617, for the withdrawal of the lands described below, subject to valid existing rights and reservations, from all forms of appropriation under the general mining laws and mineral leasing laws except oil and gas leasing. The applicant desires the land for an administrative site for the Rogue River National Forest.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, 1001 N. E. Lloyd Blvd., P. O. Box 3861, Portland 8, Oregon.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

WILLAMETTE MERIDIAN, OREGON

T. 28 S., R. 5 E., W. M.

Sec. 32: N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$, 120.00 acres.

VIRGIL T. HEATH,
State Supervisor.

JANUARY 3, 1956.

[F. R. Doc. 56-476; Filed, Jan. 19, 1956;
8:47 a. m.]

National Park Service

[Order No. 2]

PROCUREMENT OFFICER AND PERSONNEL
OFFICER OF NATIONAL CAPITAL PARKS

DELEGATIONS OF AUTHORITY

SECTION 1. The authority delegated to the Superintendent, National Capital Parks, by the Director of the National Park Service by Order No. 14, dated December 1, 1954 (19 F. R. 8824, December 23, 1954), and of Amendment No. 4, dated January 3, 1956 (21 F. R. 163), is redelegated as follows:

(a) That the Procurement Officer of National Capital Parks may enter into contracts, not in excess of \$20,000 for supplies or services in conformity with applicable regulations and statutory requirements and subject to the availability of appropriations.

(b) That the Personnel Officer of National Capital Parks may make appointments and status changes in conformity with applicable regulations and statutory requirements in positions up to and including GS-11, and all ungraded positions.

Redelegations of authority Order No. 1, dated July 2, 1954 (19 F. R. 4204, July 9, 1954) is hereby terminated effective January 14, 1956.

Issued this 16th day of January 1956.

EDWARD J. KELLY,
Superintendent,
National Capital Parks.

[F. R. Doc. 56-478; Filed, Jan. 19, 1956;
8:47 a. m.]

CIVIL SERVICE COMMISSION

CERTAIN GEOPHYSICIST POSITIONS
THROUGHOUT THE CONTINENTAL UNITED
STATES, ALASKA, PACIFIC ISLANDS AND
THE ANTARCTIC

NOTICE OF INCREASES IN MINIMUM RATES OF PAY

Under the provisions of section 803 of the Classification Act of 1949, as amended (68 Stat. 1106; 5 U. S. C. 1133), pursuant to 5 CFR 25.103, 25.105, the Commission has increased the minimum rate of pay for geophysicist positions at GS-5 and GS-7 in the classes specified by the titles indicated below. The new rate for GS-5 has been set at \$4345 (the sixth step of the grade), and for GS-7 at \$4930 (the fourth step of the grade). This increase will be effective on the first day of the first pay period which begins after January 14, 1956, and applies to these positions throughout the continental United States, Alaska, Pacific Islands, and the Antarctic.

The new minimum rates apply to classes of Geophysicist positions grades GS-5 and GS-7, in the GS-1313 series specified by the following titles:

Geophysicist (Earth Physics).
Geophysicist (Geomagnetics).
Geophysicist (Seismology).

UNITED STATES CIVIL SERVICE
COMMISSION,

[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 56-488; Filed, Jan. 19, 1956;
8:49 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-8913]

TRANSCONTINENTAL GAS PIPE LINE CORP.

NOTICE OF APPLICATION AND DATE OF HEARING

JANUARY 17, 1956.

Transcontinental Gas Pipe Line Corporation (Transco), a Delaware corporation with its principal place of business located at Houston, Texas, filed on May 16, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing it to construct and operate gas facilities as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in its application which is on file with the Commission and open for public inspection.

Transco requests authorization to construct and operate an additional compressor station on its main 30-inch line on the site of Transco's existing centrifugal Compressor Station 5 in Evangeline Parish, Louisiana. The new station will be designated Compressor Station 5A.

Transco proposes that Station 5A will consist of a 2,000 horsepower reciprocating engine and compressor unit. It will compress gas purchased by Transco from suppliers in South Louisiana lateral line entering its main 30-inch line at Station 5.

Transco states that it presented evidence in the proceedings in Docket No. G-4185 showing that the presently in-

stalled compressor in Station 5 could be modified by impeller changes so that the station could be used to compress both the South Louisiana gas and the gas purchased by Transco in Texas and points southwest of Station 5. However, after further study and consultation with the manufacturer of the compressors, it was decided that although theoretically feasible, the contemplated plan of operating Station 5 was not practical mechanically and would reduce the station's efficiency. In addition, it would be a safety hazard to operating personnel.

Transco now proposes to build Station 5A solely to compress the South Louisiana gas with Station 5 compressing only the gas coming from Texas and points southwest of Station 5.

The estimated capital cost of the proposed Station 5A is \$429,000, which is to be financed as part of the \$78,000,000 projects authorized in Docket Nos. G-2367 and G-4185. It is not expected that the \$429,000 station will increase the cost of these projects above the estimated \$78,000,000 because firm bids received by Transco on a portion of the G-4185 facilities and materials already purchased were at prices below those estimated to an extent sufficient to cover the \$429,000.

Transco states that the effect of the proposed investment on Transco's overall cost of service will not be significant, particularly because there will be savings in operating expenses due to the use of less total horsepower than was contemplated at G-4185 and also because present personnel at Station 5 can be used to operate the proposed Station 5A; and that the proposed rearrangement will give Transco about 5,000 excess horsepower in Station 5 which can be used to take maximum available quantities of gas from Texas in the event of curtailment or interruption of the South Louisiana supply.

No additional or new service is proposed.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on February 16, 1956, at 9:30 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for it will be unnecessary for Applicant to appear or be represented at the hearing, unless otherwise advised.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or

before February 1, 1956. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL]

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-479; Filed, Jan. 19, 1956;
8:47 a. m.]

[Docket No. G-9421]

TRANSCONTINENTAL GAS PIPE LINE CORP.

NOTICE OF APPLICATION AND DATE OF
HEARING

JANUARY 17, 1956.

Transcontinental Gas Pipe Line Corporation (Transco), a Delaware Corporation, with its principal place of business located at Houston, Texas, filed on September 30, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing it to construct and operate gas facilities as hereinafter described subject to the jurisdiction of the Commission, all as more fully represented in its application which is on file with the Commission and open for public inspection.

Transco requests authorization to construct and operate 900 feet of 30-inch pipe line and appurtenant equipment, the additional pipe line is to be installed adjacent to Transco's present 30-inch and 36-inch lines crossing the Tallapoosa River approximately 15 miles north of Wadley, Randolph County, Alabama.

Transco states that on March 7, 1955, at Docket Nos. G-4185 and G-2367 the Commission issued a certificate to Transco allowing the construction of a 36-inch loop line across the Tallapoosa River. Blasting at the river crossing during installation of this line damaged the existing 30-inch line crossing necessitating its temporary removal from service in order to determine the extent of the damage and possible repair thereof. The damaged line is presently being used pending completion of the new crossings.

It is further stated that since Transco's construction program authorized in Docket Nos. G-2367 and G-4185 was expected to be completed by November 1, 1955, it will need both the 36-inch and the proposed 30-inch crossings if the existing 30-inch line is to be temporarily taken out of service.

Transco proposes to repair and retain in service the existing 30-inch line, provided no major damage is disclosed, as future insurance against interrupted service to its customers.

Construction of the new line will entail no change in Transco's existing rates and no increase in system delivery capacity, or any interruption of service to present customers. No additional service beyond that authorized by the Commission is proposed to be rendered by Transco.

The estimated over-all capital cost of construction of the 30-inch crossing is \$109,000 which will be financed by Transco from corporate funds. The additional investment will have an insignificant effect on Transco system cost of service.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on February 21, 1956, at 9:30 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for it will be unnecessary for Applicant to appear or be represented at the hearing, unless otherwise advised.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 7, 1956. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL]

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-480; Filed, Jan. 19, 1956;
8:47 a. m.]

[Docket No. G-9220]

TEXAS EASTERN TRANSMISSION CORP.

NOTICE OF APPLICATION AND DATE OF
HEARING

JANUARY 17, 1956.

Take notice that Texas Eastern Transmission Corporation (Applicant), a Delaware corporation whose address is Texas Eastern Building, Shreveport, Louisiana, filed on August 10, 1955, as supplemented on October 7, 1955, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render increased service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application and supplement which are on file with the Commission and open for public inspection.

Applicant proposes to change service effective November 1, 1956, by making increased sales of natural gas in interstate commerce to New York and Richmond Gas Company for resale as a result of converting the present Gas Purchase Contract dated January 8, 1953, from

service under Applicant's GS rate schedule as presently authorized to service under Applicant's DCQ rate schedule.

Applicant alleges that the presently authorized facilities are adequate to render the increased service as proposed and requests authorization to make sales to New York and Richmond Gas Company of 7,627 Mcf (at 15.025 psia; or 7,780 Mcf at 14.73 psia) of gas pursuant to the terms and conditions of Applicant's DCQ rate schedule.

Applicant further alleges that New York and Richmond is desirous of maintaining the same Maximum Daily Quantity and thereby increasing the Annual Contract Quantity; that Applicant has consented to the conversion on this basis since the annual contract quantity will be increased by only 724,455 Mcf (at 15.025 psia; or 738,944 Mcf at 14.73 psia); that Applicant can deliver this increased annual quantity without impairment to its present obligations since such increase amounts to only one-tenth (1/10) of one (1%) percent of Applicant's total requirements for the year 1954, which requirements amounted to 522,208,225 Mcf (at 15.025 psia; or 532,652,390 Mcf at 14.73 psia), and will amount to even less during the year of 1955 and thereafter as a result of increased elections by present customers and additional allocations authorized by the Commission in recent dockets; that the proposed increased annual contract quantity is urgently needed by New York and Richmond in order to enable it to meet the increased requirements of its present and proposed customers; that said proposal will permit New York and Richmond to operate its system at a higher annual load factor and a resulting lower average cost of gas than it has previously operated; and that the additional revenues estimated to be received by Applicant as a result of this conversion will amount to only \$185,000 per year.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on Thursday, February 23, 1956, at 9:30 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application as supplemented: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or

before February 2, 1956. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL]

LEON M. FUQUAY,
Secretary.

[P. R. Doc. 56-481; Filed, Jan. 19, 1956;
8:48 a.m.]

[Docket No. G-9854]

SKELLY OIL CO.

NOTICE OF APPLICATION AND DATE OF
HEARING

JANUARY 17, 1956.

Take notice that Skelly Oil Company (Applicant), a Delaware corporation whose address is Box 1650, Tulsa, Oklahoma, filed on January 6, 1956, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant sold, on and after June 7, 1954, natural gas in interstate commerce to Lone Star Gas Company for resale pursuant to contract dated July 25, 1952, as amended, and proposes to renew said sale of natural gas in interstate commerce to Lone Star Gas Company for resale in accordance with contract dated November 1, 1955. Said gas is surplus residue gas obtained after processing in Applicant's Velma Gasoline Plant produced from Velma Oil Field, Stephens County, Oklahoma.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held on Tuesday, February 7, 1956, at 9:30 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 1, 1956. Failure of any party to appear at and participate in the hearing

shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL]

LEON M. FUQUAY,
Secretary.

[P. R. Doc. 56-482; Filed, Jan. 19, 1956;
8:48 a.m.]

[Docket No. E-6384]

MONTANA POWER CO. ET AL.

ORDER SUPPLEMENTING ORDER INSTITUTING
AN INVESTIGATION

In the matter of The Montana Power Company, Pend Oreille Mines and Metals Company, Puget Sound Power and Light Company, The Washington Water Power Company, Public Utility District No. 1 of Chelan County, Washington, and Public Utility District No. 1 of Pend Oreille County, Washington.

The Bonneville Dam, constructed by the United States, is located on the Columbia River at mile 145. The Dalles Dam is under construction by the United States on the Columbia River at mile 192. The McNary Dam, constructed by the United States, is located on the Columbia River at mile 292. Puget Sound Power and Light Company's Rock Island Project No. 943 is located at river mile 453 on the Columbia River. In addition, the license for Project No. 943 has been amended to authorize the Public Utility District No. 1 of Chelan County, Washington, as one of the licensees for that project, to enlarge the Rock Island Dam and to install six additional generating units. Public Utility District No. 1 of Chelan County, Washington, is licensee for Project No. 637 (Chelan) located at river mile 4 on the Chelan River, a tributary of the Columbia, entering the latter river at mile 503. The Chief Joseph Dam is being constructed by the United States on the Columbia River at mile 545. The Grand Coulee Dam, constructed by the United States, is located on the Columbia River at mile 600. Pend Oreille Mines & Metals Company's Project No. 1393 (Metaline Falls) is located at mile 28 on the Pend Oreille River, a tributary of the Columbia, entering that river at mile 748. Public Utility District No. 1 of Pend Oreille County, Washington, is the licensee of the Box Canyon Project No. 2042, located at mile 34 on the Pend Oreille River about 55 miles downstream from the Federal Albeni Falls Project. The Albeni Falls Dam, constructed by the United States under the supervision of the Corps of Engineers and the Secretary of the Army, is located at mile 90 on the Pend Oreille River. The Washington Water Power Company's Project No. 2058 (Cabinet Gorge) is located on Clark Fork River, a tributary of Pend Oreille River, 150 miles above the mouth of Pend Oreille River. The Montana Power Company's Project No. 1869 (Thompson Falls) is located on the Clark Fork River, 208 miles above the mouth of Pend Oreille River. The Montana Power Company Project No. 5 (Flathead) is located on the Flathead River, 318 miles above the mouth

of Pend Oreille River, the Flathead River being a tributary of the Clark Fork River which becomes the Pend Oreille River at the outlet of the Pend Oreille Lake. The Hungry Horse Project, constructed by the United States, is located on the South Fork of Flathead River, 400 miles above the mouth of Pend Oreille River.

By order issued June 28, 1950, the Commission instituted an investigation under section 10 (f) of the Federal Power Act (Docket No. E-6404) to determine whether certain licensed projects in the Columbia River Basin had been directly benefited by the construction work of another licensee or of the United States of a storage reservoir or other headwater improvement. In an order issued February 25, 1952, terminating that investigation, the Commission found that none of the licensees in the Basin had been benefited by such headwater improvements during the period beginning in 1931 and ending December 31, 1948.

By order issued February 4, 1952, as amended by order issued December 5, 1952, the Commission instituted a preliminary investigation respecting the aforesaid projects (Docket No. E-6384) pursuant to the provisions of the Federal Power Act, particularly section 10 (f) thereof. This preliminary investigation was desired by the Administrator, Bonneville Power Administration, for use in the establishment of rates for the sale of electric power generated at Federal projects. In carrying out this preliminary investigation, the Commission has received the cooperation of the licensees involved, and of the agencies of the United States concerned with the operation of power plants in the Columbia River Basin and the marketing of power from these projects.

The Hungry Horse and Albeni Falls Federal projects and the Cabinet Gorge and Box Canyon licensed projects have been placed in operation, and additional generating capacity has been installed in the Rock Island licensed project since the period ending December 31, 1948 covered by the prior headwater benefit investigation (E-6404) which has been terminated. Further investigation is necessary to determine the actual benefits and assessments which the Commission is required to determine under section 10 (f) of the Federal Power Act. The basic data gathered by the licensees and Federal agencies, including the Commission's staff, during the preliminary investigation in Docket No. E-6348 will be useful for that purpose.

The Commission finds: It is appropriate and in the public interest to enlarge and extend this investigation as herein-after provided.

The Commission orders: The investigation instituted by order issued February 4, 1952, in Docket No. E-6384, as amended by order issued December 5, 1952, is hereby enlarged and extended for the purpose of enabling the Commission to determine pursuant to the provisions of the Federal Power Act, particularly section 10 (f) thereof, whether any of the above designated licensees is directly benefited by the construction work of another licensee or of the United States of a storage reservoir or other headwater improvement and, if it so finds, to deter-

mine the equitable proportion of the annual charges to be paid by any licensee so benefited for interest, maintenance and depreciation on the storage reservoir or other headwater improvement constructed by another licensee or by the United States.

Adopted: January 11, 1956.

Issued: January 16, 1956.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-483; Filed, Jan. 19, 1956;
8:48 a. m.]

[Docket No. E-6655]

KANSAS GAS AND ELECTRIC CO.

NOTICE OF APPLICATION SEEKING ORDER
AUTHORIZING BOND ISSUANCE

JANUARY 16, 1956.

Take notice that on January 10, 1956, an application was filed with the Federal Power Commission pursuant to section 204 of the Federal Power Act by Kansas Gas and Electric Company (Applicant), a corporation organized under the laws of the State of West Virginia and doing business in the State of Kansas, with its principal business office at Wichita, Kansas, seeking an order authorizing the issuance, by competitive bidding, of \$7,000,000 principal amount of First Mortgage Bonds, -- Percent Series due 1986 and 200,000 shares of common stock, without par value. Applicant proposes, on or about February 15, 1956, publicly to invite separate sealed, written proposals for the purchase of the bonds and for the purchase of the stock. Upon completion of the sale of the proposed 200,000 additional shares of common stock, there will be outstanding 2,150,000 shares of common stock. Applicant states that the proceeds from the securities to be issued will be used to meet expenditures in connection with its construction program; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before the 2d day of February 1956, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's rules of practice and procedure. The application is on file and available for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-484; Filed, Jan. 19, 1956;
8:48 a. m.]

OFFICE OF DEFENSE MOBILIZATION

OTTO L. NELSON, JR.

EMPLOYMENT WITHOUT COMPENSATION AND
STATEMENT OF BUSINESS INTERESTS

Pursuant to section 710 (b) of the Defense Production Act of 1950 as amended, notice is hereby given of the appoint-

No. 13-4

ment of Major General Otto L. Nelson, Jr., U. S. Army (Retired), Vice President, New York Life Insurance Company, New York, New York, as an Advisor (Special Consultant to the Director), in the Office of Defense Mobilization.

Mr. Nelson's statement of his business interests is set forth below.

Dated: January 10, 1956.

ARTHUR S. FLEMING,
Director,
Office of Defense Mobilization.

Appointee's Statement of Business Interests

The following statement lists the names of concerns required by subsection 710 (b) (6) of the Defense Production Act of 1950, as amended.

Director: Building Research Institute, Carnegie Endowment for International Peace, Governmental Affairs Institute, Institute of Public Administration, New York Building Congress, Inc., Regional Plan Association, Inc.

Officer: Vice President, New York Life Insurance Company, Treasurer, New York Building Congress, Inc., Vice President, Regional Plan Association, Inc., Member of Finance Committee, Building Research Institute.

Owner: 97-acre beef cattle farm (63 Aberdeen Angus cattle).

Stocks: Union Pacific Railroad Company, Blaw-Knox Company, United Fruit Company.

Dated: December 29, 1955.

OTTO L. NELSON, JR.

[F. R. Doc. 56-493; Filed, Jan. 19, 1956;
8:50 a. m.]

CRITICAL OCCUPATIONS AND ESSENTIAL ACTIVITIES FOR ENLISTMENT IN THE READY RESERVE OF THE ARMED FORCES

In accordance with the provisions of section 262 (b) of the Reserve Forces Act of 1955 (19 Stat. 598) and of § 1680.1 (b) of Executive Order 10650 of January 6, 1956 (21 F. R. 167), and after consultation with the Secretary of Defense, as provided therein, the following lists of critical occupations and essential activities are promulgated for the guidance of local boards and appeals boards in the selection of registrants for enlistment in the Ready Reserve of the Armed Forces:

OCCUPATIONS

Chemist.¹
Clinical psychologist.
Die setter.
Engineer draftsman, design.
Engineer professional (all branches).
Foreman (critical occupations only).
Geologist.
Geophysicist.
Glass blower, laboratory apparatus.
Jig-and-template maker.
Mathematician.¹
Microbiologist¹ (Includes bacteriologist).
Nurse, professional.
Orthopedic appliance and limb technician.
Osteopath.
Parasitologist (plant or animal).¹

¹ Limited to those having graduate degrees (master's or doctor's) or equivalent experience, education and training (generally considered not less than 1 year beyond bachelor degree level).

Patternmaker.
Pharmacologist.¹
Physicist.¹
Physiologist (medical).¹
Teacher, college and vocational (critical occupations only).
Teacher, high school (mathematics and physical and biological sciences only).
Tool and die designer.
Tool and die maker.

ACTIVITIES

1. Production and maintenance of aircraft and parts: Production, maintenance, and repair of military aircraft and component parts.

2. Ship and boat engineering: Engineering and design of ships and boats and their components for military purposes.

3. Ordnance: Production and maintenance of weapons (including nuclear weapons and guided missiles) and component parts.

4. Precision laboratory instruments, apparatus, and scientific laboratory glassware: Production of complex or custom blown scientific and technical and laboratory glassware. Production of precision laboratory instruments such as analytical balances, centrifuges, spectrographs, spectrophotometers, microtomes, pH instruments, galvanometers, potentiometric devices, etc.

5. Production of electronic and communication equipment: Production of electronic and communication equipment for military use.

6. Production of chemical and allied products: Production of materials specifically used in propellants for launched or guided missiles, aircraft, armament rockets, and similar weapons, as well as the processing of the materials into propellants, exclusive of conventional fuels. Production of high temperature resins and other chemicals used specifically in the production of launched or guided missiles, aircraft, armament rockets, and similar weapons.

7. Water and sewerage systems: Operation of water and sewerage systems.

8. Health and welfare services: Personal medical, dental and nursing services; hospitals; public health services.

9. Educational services: Colleges and vocational schools and high school instruction in mathematics and physical and biological sciences.

10. Research and development services: Basic and applied research, exploration and development projects, including process development, of direct concern to the national health, safety, or interest.

Dated: January 14, 1956.

OFFICE OF DEFENSE
MOBILIZATION,
ARTHUR S. FLEMING,
Director.

[F. R. Doc. 56-486; Filed, Jan. 19, 1956;
8:49 a. m.]

UNITED STATES TARIFF COMMISSION

[Investigation 47]

GROUND FISH FILLETS, ETC.

NOTICE OF INVESTIGATION

Investigation instituted. Upon application made January 12, 1956, by the Massachusetts Fisheries Association, Inc., and others, the United States Tariff Commission, on the 16th day of January 1956, under the authority of section 7 of the Trade Agreements Extension Act of 1951, as amended, and section 332 of the Tariff Act of 1930, instituted an investigation to determine whether the

products described below are, as a result, in whole or in part, of the duty or other customs treatment reflecting concessions granted on such products under the General Agreement on Tariffs and Trade, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products.

**Tariff Act
of 1930**

Description of product
Par. 717 (b) -- Cod, haddock, hake, pollock, cusk, and rosefish, fresh or frozen (whether or not packed in ice), all the foregoing, filleted, skinned, boned, sliced, or divided into portions.

Inspection of application. The application filed in this case is available for public inspection at the office of the Secretary, United States Tariff Commission, 8th and E Streets NW., Washington,

D. C., and in the New York office of the Tariff Commission, located in Room 437 of the Custom House, where it may be read and copied by persons interested.

Issued: January 17, 1956.

By order of the Commission.

[SEAL]

**DONN N. BENT,
Secretary.**

[F. R. Doc. 56-496; Filed, Jan. 19, 1956;
8:50 a. m.]

[List No. D-7-12]

SANDALS

COMPLAINT DISMISSED

JANUARY 17, 1956.

Complaint below filed with the United States Tariff Commission for investigation under the provisions of section 337 of the Tariff Act of 1930, has been dismissed.

Name of article	Purpose of request	Date received	Name and address of complainant
Sandals.....	Exclusion from entry.....	Nov. 18, 1955	Ray J. Pastene, San Francisco, Calif.

By direction of the Commission.

[SEAL]

**DONN N. BENT,
Secretary.**

[F. R. Doc. 56-497; Filed, Jan. 19, 1956;
8:51 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 17, 1956.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 31528: Commodities from and to Southern Points. Filed jointly by C. W. Boin and O. E. Swenson, Agents, for interested rail carriers. Rates on various commodities, carloads from or to specified points in southern territory, to or from specified points in official territory.

Grounds for relief: Carrier competition and circuitry.

FSA No. 31529: Pumice-Ammon and Iona—Idaho to Iowa and Kansas. Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on pumice, crude or crushed, carloads from Ammon and Iona, Idaho to specified points in Iowa and Kansas.

Grounds for relief: Short-line distance formula and circuitry.

Tariff: Supplement 10 to Agent Prueter's I. C. C. A-4123.

FSA No. 31530: Cans or pails from Peotone, Ill., to Missouri River Cities. Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on cans or pails, new, set up, iron or steel, 24 gauge or thinner, straight or mixed carloads from Peotone, Ill., to Council Bluffs,

Iowa, Fairfax, Ft. Leavenworth, Kansas City, Leavenworth, Kans., Kansas City, Mo., Omaha and South Omaha, Nebr.

Grounds for relief: Circuitous routes. Tariff: Supplement 54 to Agent Prueter's I. C. C. A-4038.

FSA No. 31531: Woodpulp—Evadale, Tex., to Middletown, Ohio. Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on woodpulp, not powdered, nolin carloads from Evadale, Tex., to Middletown, Ohio.

Grounds for relief: Circuitous routes. Tariff: Supplement 5 to Agent Kratzmeir's I. C. C. 4114.

FSA No. 31532: Trailer-on-flat car service between the Southwest and Western and Northern Points. Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on various commodities, moving on class and commodity rates, in highway trailers loaded on railroad flat cars between specified points in Illinois, western Indiana, Minnesota and Wisconsin, on the one hand, and specified points in Arkansas, Louisiana, Oklahoma and Texas, on the other.

Grounds for relief: Motor truck competition and circuitry.

Tariff: Agent Kratzmeir's tariff I. C. C. 4181.

FSA No. 31533: Building or roofing material—Chicago, Ill., to Kansas City, Mo. Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on building or roofing material, carloads, from Chicago, Chicago Heights, Joliet, and Waukegan, Ill., to Kansas City, Mo.

Grounds for relief: Circuitous routes. Tariff: Supplement 54 to Agent Prueter's I. C. C. A-4038.

FSA No. 31534: Asphalt—Port Wentworth and Savannah, Ga., to North Carolina. Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on asphalt, tank-car loads from Port Wentworth and Savannah, Ga., to Charlotte and Thrift, N. C.

Grounds for relief: Market competition and circuitry.

Tariff: Supplement 43 to Alternate Agent J. H. Marquie's I. C. C. 424.

FSA No. 31535: Corn syrup—Western Trunk Line Points to Pacific Coast. Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on corn syrup, unmixed (glucose) tank-car loads from specified points in Illinois, Iowa, Minnesota, Missouri, South Dakota and Wisconsin to destinations in the Pacific Coast area.

Grounds for relief: Circuitous routes operating in part through higher-rated origin groups.

Tariff: Supplement 91 to Agent Prueter's I. C. C. 1564.

FSA No. 31536: Plywood or built-up wood—Wisconsin to South. Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on plywood or built-up wood, in carloads as described, from stations in Wisconsin on the Ahnapee and Western Railway Company to destinations in southern states Alabama to Virginia, inclusive.

Grounds for relief: Circuitous routes in part through higher-rated intermediate destinations in official territory.

FSA No. 31537: Superphosphate—Don, Idaho, and Garfield, Utah, to W. T. L. Territory. Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on superphosphate, not defluorinated, nor feed grade superphosphate, carloads from Don, Idaho, and Garfield, Utah, to destinations in Minnesota, North Dakota and South Dakota.

Grounds for relief: Short-line distance formula and circuitry.

By the Commission.

[SEAL]

**HAROLD D. MCCOY,
Secretary.**

[F. R. Doc. 56-477; Filed, Jan. 19, 1956;
8:47 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

ANITA BRENECKE DE PUELMA

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Anita Brenecke de Puelma, Santiago de Chile, Providencia, South America, Claim Nos. 58476 and 62923, Vesting Order Nos. 8711 and 12251; \$9,803.96 in the Treasury of the United States.

Executed at Washington, D. C., on January 3, 1956.

For the Attorney General.

[SEAL]

**PAUL V. MYRON,
Deputy Director,
Office of Alien Property.**

[F. R. Doc. 56-494; Filed, Jan. 19, 1956;
8:50 a. m.]

ISTITUTO NAZIONALE PER I CAMBI CON
L'ESTERO

NOTICE OF INTENTION TO RETURN VESTED
PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any in-

crease or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Istituto Nazionale per i Cambi con l'Estero, now in liquidation, represented by its liquidator, Ufficio Italiano dei Cambi, Rome, Italy, Claim No. 62850; \$3,021,120.00 in the Treasury of the United States.

Executed at Washington, D. C., on January 16, 1956.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
*Assistant Attorney General,
Director, Office of Alien Property.*

[F. R. Doc. 56-495; Filed, Jan. 19, 1956;
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